



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

TR.CMP (MD) No.449 of 2015

and

M.P (MD) No.1 of 2015

M.Karpagavalli

... Petitioner

vs.

K.Muthukumar

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the HMOP.No.149 of 2015 from the file of the Sub Court, Tuticorin and transfer the same to the file of the Family Court, Tirunelveli.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.A.Thiruvadi Kumar

ORDER

The marriage between the petitioner and the respondent was solemnized on 11.06.2000 as per the Hindu rites and customs and due to the strained relationship between the petitioner and the respondent, they are living separately for more than two years. The respondent filed HMOP.No.149 of 2015 before the Sub Court, Tuticorin, seeking divorce. The petitioner has come out with the present petition seeking transfer of HMOP.No.149 of 2015 from the Sub Court, Tuticorin, to the Family Court, Tirunelveli. The contention of the petitioner is that she is living along with her parents and she has no independent sources of income. Therefore, she is unable to attend the Court at Tuticorin.

2.The learned counsel for the respondent opposed the contentions of the petitioner by stating that out of the wedlock between the petitioner and the respondent, twins both girl child born and now they are aged about 14 years and both the girl children have chosen to live with the father and now the respondent is looking after both the girl children and both are school going. Further, the learned counsel for the respondent submitted that the divorce petition was filed mainly on the ground that there is illicit relationship by the petitioner with a third person and she is not leading a moral life. In view of this factor, the girl children preferred to live with the father and he is looking after the two girl children.



3. Considering the facts and circumstances of this case that the respondent is looking after two girl children at Tuticorin, and the petitioner is living alone at Tirunelveli, this Court is not inclined to consider the case of the petitioner. Though it is a settled legal position that the place of women is preferable in transfer petitions, the facts of this case are different and the two girl children are living with the respondent/father and they are studying at Tuticorin.

Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/
Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

1)The Judge, Sub Court, Tuticorin.

2)The Judge, Family Court, Tirunelveli.

+1cc to M/S.H.Arumugam, Advocate in SR.No.62427.

TR.CMP (MD) No.449 of 2015
20.10.2016

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