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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2016

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

TR.C.M.P. (MD) .No.472 of 2015

and

M.P. (MD) No.1 of 2015

G.Malliga ... Petitioner/Respondent

Vs.

J.Gopalakrishnan ... Respondent/Petitioner

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., Order Rule 1(2) of C.P.C., to withdraw the H.M.O.P.No.400 of 2015 on the file of the Subordinate Court, Tambaram and transfer the same to II Additional Subordinate Court, Madurai (Thirumangalam Camp Court).

For Petitioner : Mr.R.Gowrishankar
For Respondent : Mr.M.Gururaj

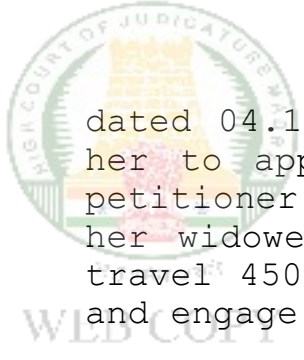
O R D E R

This Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.400 of 2015 from the file of the Subordinate Court, Tambaram and to transfer the same to the II Additional Subordinate Court, Madurai(Thirumangalam Camp Court).

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the records.

3. The petitioner is the wife of the respondent and the marriage was solemnized between them on 29.10.2001 at Sri. Venkatasalapathy Kalyana Mahal, S.Kottaipatti, Perayur Taluk, Madurai District. In the said wedlock, they have been blessed with two sons.

4. The learned counsel for the petitioner submitted that the respondent filed a Divorce petition in H.M.O.P.No.400 of 2015 before the Subordinate Court, Tambaram and the same was posted for hearing on 17.12.2015. The petitioner received the notice,



dated 04.11.2015 from the Subordinate Court, Thambaram, directing her to appear before the Court on 17.12.2015, for hearing. The petitioner is an unemployed and struggling to lead her life with her widowed mother and financially, she is not in a position to travel 450 Kilometers from Madurai to Thambaram Subordinate Court and engage counsel at Chennai, for contesting the case.

5. Further, learned counsel for the petitioner submitted that the petitioner also filed the H.M.O.P.No.540 of 2015 before the II Additional Subordinate Court, Madurai(Thirumangalam Camp Court) for restitution of conjugal rights and the same is pending.

6. The learned counsel for the respondent submitted that the respondent herein is working as a Mechanic at Chennai and if he is traveling from Chennai to Madurai, he leaves behind all his work and the earning from the said occupation.

7. It is an admitted fact that the petitioner filed H.M.O.P. No.540 of 2015 before the II Additional Subordinate Court, Madurai (Thirumangalam Camp Court), for restitution of conjugal rights and the respondent herein filed the H.M.O.P.No.400 of 2015 before the Subordinate Court, Thambaram for Divorce. Therefore, in the interest of justice, since the petitioner is residing with her widowed mother and also financially, she is not in a position to spend the expenses for travelling from Madurai to Chennai, the petitions filed by both the petitioner as well as the respondent has to be tried by the II Additional Subordinate Court, Madurai (Thirumangalam Camp Court).

8. Considering the above facts and circumstances of the case and in the interest of justice, the Transfer Civil Miscellaneous Petition filed by the petitioner is allowed and I am inclined to pass the following order:-

i) The petition in H.M.O.P.No.400 of 2015 is ordered to be withdrawn from the file of the learned Subordinate Judge, Thambaram and transferred to the file of the learned II Additional Subordinate Judge, Madurai (Thirumangalam Camp Court), for joint trial along with H.M.O.P.No.540 of 2015.

ii) The learned Subordinate Judge, Thambaram, is directed to transmit the entire records to the file of the learned II Additional Subordinate Judge, Madurai (Thirumangalam Camp Court), for joint trial along with H.M.O.P. No.540 of 2015, within a period of two weeks from the date of receipt of a copy of this order, if the same is not yet disposed of.



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iii) The Registry is also directed to send back the papers that are pending before the Registry.

iv) As and when the records received, the learned II Additional Subordinate Judge, Madurai (Thirumangalam Camp Court), is directed to re-number the H.M.O.P., to be tried joint trial along with H.M.O.P. No.540 of 2015 and dispose of the same, as expeditiously as possible, in any event not later than six months from the date of receipt of records, if the parties are co-operated with the enquiry.

No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

pmu

To

1 The Subordinate Judge,
Tambaram, Chennai.

2. The II Additional Subordinate Judge,
Madurai (Thirumangalam Camp Court)

Copy To : The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.R.Gowrishankar, Advocate Sr.No.55498

GJM/SS2/2.11.16-3p-5C

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