



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.476 of 2015 and
M.P(MD)No.1 of 2015

M. Kamini @ Muthukrishnammal

... Petitioner

Vs.

K. Senthilkumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the HMOP.No.74 of 2015 from the file of the Family Court, Srivilliputur, to Principal Sub Court, Tenkasi, to be tried along with HMOP.No.220 of 2015.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.V.B.Sundareshwar

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in HMOP.No.74 of 2015 from the file of the Family Court, Srivilliputur, to Principal Sub Court, Tenkasi, to be tried along with HMOP.No.220 of 2015.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 04.09.2008, as per Hindu Rites and Customs. At the time of marriage, 35 sovereign of gold ornaments, household articles worth about Rs.1,00,000/- was given to the petitioner and 5 sovereign of gold to the respondent. After marriage both were living together in the matrimonial home at Srivilliputur along with his mother and elder brother of the respondent as joint family. Due to ill advice of the of the mother and brother of the respondent started to quarrel with petitioner. Due to that dispute arose, the petitioner left the matrimonial home. The respondent filed HMOP.No.74 of 2015 for divorce. The petitioner filed detailed counter affidavit in the said HMOP and filed a petition in HMOP.No.220 of 2015 on the file of Sub Court, Tenkasi, for restitution of conjugal rights.

3. The petitioner is working as an Assistant Professor in the Department of Commerce at Sri Parasakthi College for Women, Courtallam and staying at Thenkasi with her age old grandfather. The petitioner lost her mother within 9 days of her birth and her father remarried and living separately. If both the HMOPs are tried separately, it will lead to conflicting decisions. In such circumstances, the petitioner has filed the present petition.



4. The respondent filed counter affidavit stating that there is a life threat to his life by the petitioner's maternal uncle viz., Lakshmanan and henchmen and hence, prayed for dismissal of this Transfer CMP.

5. The learned counsel appearing for the petitioner filed re-joinder and additional Typed Set of papers stating that the said Lakshmanan died on 23.07.2015 and denied the life threat by the family members of the petitioner and the petitioner. He has also produced a death certificate of the said Lakshmanan.

6. Heard the learned counsel appearing for the parties.

7. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both H.M.O.P.No.74 of 2015 and HMOP.No.220 of 2015 are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.74 of 2015 pending on the file of the Family Court, Srivilliputur, is hereby withdrawn and transferred to the file of the Principal Sub Court, Tenkasi, to be tried along with H.M.O.P.No.220 of 2015 filed by the petitioner, if the same is not yet disposed of. The Family Court, Srivilliputur, is directed to transmit the entire records pertaining to the case in HMOP.No.74 of 2015 to the transferee Court immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Family Court, Srivilliputur,
2. The Principal Sub Judge, Tenkasi,

Copy To:-

The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO MR.M.P.SENTHIL, ADVOCATE IN SR NO. 9193
+ 1 CC TO MR.V.B.SUNDHARESHWAR, ADVOCATE IN SR NO. 8999
TRP

TE/PM-MP/ : 23/02/2016 : 2P/6C
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