



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.04.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.141 of 2016

and

C.M.P (MD) No.2372 of 2016

Muthu Bhuvaneswari

.. Petitioner

Vs.

M.Ganesan

.. Respondent

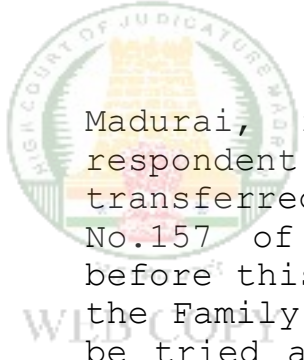
Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the I.A.No.92 of 2015 in H.M.O.P.No.229 of 2010, on the file of the Learned Principal Sub Court, Dindigul and to transfer the case in connection with the H.M.O.P.No.544 of 2013 and H.M.O.P.No.23 of 2015 on the file of the III Additional Sub Court, Madurai, Madurai District filed by the petitioner forthwith.

For Petitioner : Mr.T.K.Gopalan
For Respondent : Mr.R.Gandhi

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw I.A.No.92 of 2015 in H.M.O.P.No.229 of 2010, on the file of Principal Sub Court, Dindigul and transfer the same to the file of the III Additional Sub Court, Madurai Sub Court, Madurai.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 02.07.2006 as per Hindu Rites and Customs. After the marriage, both were living in matrimonial home at Chettinaickenpatty Village. A female child was born on 24.03.2007 and a male child was born on 09.02.2009 in the wedlock. Due to dispute, both petitioner and respondent were living separately. The respondent filed HMOP.No.229 of 2010, before the Principal Sub Court, Dindigul, for restitution of Conjugal rights. The petitioner filed I.A.No.64 of 2011 for interim maintenance and the same was ordered and HMOP No.229 of 2010, filed by the respondent was dismissed for default. Subsequently, the petitioner filed H.M.O.P.No.544 of 2013, before the III Additional Sub Court,



Madurai, for Restitution of Conjugal Rights. While so, the respondent filed HMOP No.203 of 2014 for divorce and the same was transferred to Family Court, Dindigul and renumbered as HMOP No.157 of 2014. The petitioner filed Tr.C.M.P.No.284 of 2014 before this Court to transfer HMOP No.157 of 2014 from the file of the Family Court, Dindigul to III Additional Sub Court, Madurai to be tried along with HMOP No.544 of 2013 filed by the petitioner. The said Transfer Civil Miscellaneous Petition was ordered on 25.09.2014 and HMOP No.157 of 2014 filed by the husband was transferred to III Additional Sub Court, Madurai and re-numbered as HMOP No.23 of 2015. Both HMOP No.544 of 2013 filed by the petitioner and HMOP No.23 of 2015 filed by the respondent are pending before the III Additional Sub Court, Madurai. In the circumstances, the respondent filed I.A.No.92 of 2015 to set aside the order passed in I.A.No.64 of 2011, which was filed for maintenance, before the Principal Sub Court, Dindigul and the said I.A.No.92 of 2015 is pending.

3. According to the petitioner, she is residing at Vadipatti Taluk, Madurai District along with her parents. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travelling expenses. The distance between Vadipatti and Dindigul is more than 65 kms. She finds it very difficult to travel from Vadipatti to Dindigul. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Madurai. In the circumstances, she has come out with the Transfer Civil Miscellaneous Petition to transfer the aforesaid I.A.No.92 of 2015 in HMOP No.229 of 2010 filed by the respondent/Husband before the Principal Sub Court, Dindigul to the file of the III Additional Sub Court, Madurai to be tried along with HMOP No.544 of 2013 and HMOP No.23 of 2015.

4. Heard the learned counsel appearing for the petitioner and the respondent.

5. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008(9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta) and AIR 2002 SC 396 (Sumita Singh Vs. Kumar Sanjay and another)**. In the present case, the petitioner has given valid reason for transferring the IA filed by the respondent and for hearing the same together along with H.M.O.P.No.s 544 of 2013 and 23 of 2015, in order to avoid conflicting decisions. For the above reasons, the transfer civil miscellaneous Petition is allowed.

6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and I.A.No.92 of 2015 in HMOP No.229 of 2010, on the file of the Principal Sub Court, Dindigul, is hereby withdrawn and



transferred to the file of the III Additional Sub Court, Madurai, to be tried along with H.M.O.P.No.544 of 2013 and HMOP No.23 of 2015, if the same is not yet disposed of. The learned Principal Sub Court, Dindigul, is directed to send the case bundles to the III Additional Sub Court, Madurai, 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(Records)

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Sub Court, Dindigul.
- 2.The III Additional Sub-Court, Madurai.

+1cc to Mr.T.K.Gopalan, Advocate in SR.No.22344

+1cc to Mr.R.Gandhi, Advocate in SR.No.22107

SDR/RR/SAR I/01.06.2016/3P/5C

TR.C.M.P (MD) No.141 of 2016
20.04.2016