



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2016

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Tr.C.M.P (MD) No.153 OF 2016

and

CMP. (MD) No.2639 of 2016

Shalini @ Mohana

: Petitioner/Respondent

Vs.

J.Rajasangeethan

: Respondent/Petitioner

Prayer: This petition is filed under Section 24 of the Civil Procedure Code, to withdraw the petition in HMOP No.156 of 2015 on the file of the Sub Court, Kancheepuram and to transfer the same and try along with HMOP No.6 of 2016 on the file of the II Sub Court (Camp Court, Tirumangalam).

For Petitioner : Mr.S.Balaji

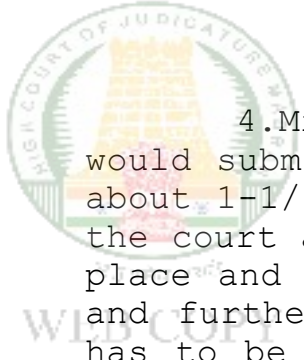
For respondent : Mr.C.Vakeeswaran

O R D E R

This petition has been filed under Section 24 of the Civil Procedure Code to withdraw the petition in HMOP No.156 of 2015 on the file of the Sub Judge, Kancheepuram and to transfer the same and try along with HMOP No.6 of 2016 on the file of the II Sub Court, Madurai (Camp Court, Tirumangalam).

2.The case of the petitioner is that the marriage between her and the respondent was solemnized on 15.05.2013 at Sri Arulmari Thirumana Mandapam, Sholavanthan Road, Tirumangalam as per the Hindu Rites and Customs. At the time of marriage, the petitioner's parents provided with 5-1/2 sovereigns of gold chain to the petitioner and household articles worth about 5,00,000/-. They were blessed with a female child on 13.11.2014.

3.It is alleged in the petition that after the birth of the child, the respondent and his family members did not come to see the child and instead they sent a legal notice on 15.06.2015 with false and frivolous allegations, for which a suitable reply was given by the petitioner on 06.07.2015. Thereafter, the respondent filed HMOP No.156 of 2015 before the Subordinate Judge, Kancheepuram for divorce and in the meantime, the petitioner filed HMOP No.6 of 2016 before the II Subordinate Judge, Madurai against the respondent for restitution of conjugal rights.



4.Mr.S.Balaji, learned counsel appearing for the petitioner would submit that the child of the petitioner namely Nuthana aged about 1-1/2 years is under the custody of the petitioner and that the court at Kancheepuram is situated 450 kms away from her native place and she is also having threat for her life at Kancheepuram and further to avoid conflicting decisions, the divorce petition has to be tried along with the petition filed for restitution of conjugal rights.

5.Per contra, Mr.C.Vageeswaran, learned counsel appearing for the respondent would submit that the petitioner is working as Government teacher at Natrampalli, Vellore District and it will be easier for her to attend the case at Kancheepuram. It is further submitted that the child is under the custody of the petitioner's grand-parents and therefore, for the convenience of both parties, the case filed before the Madurai court has to be transferred to Kancheepuram.

6.Heard the rival submissions and perused the materials available on record.

7.It is not in dispute that the petitioner had already instituted the case against the respondent before the Sub Court, Madurai for restitution of conjugal rights. Though the petitioner is presently employed in Vellore District, admittedly she is a native of Thirumangalam, Madurai District and it is also not disputed that the child is under her custody.

8.Keeping in view of the above facts, this petition is allowed and the petition in HMOP No.156 of 2015 is ordered to be withdrawn from the file of the Sub Judge, Kancheepuram and transferred to the file of the II Sub Court, Madurai (Camp Court, Thirumangalam) to be tried along with the petition in HMOP No.6 of 2016. The transferor Court is ordered to transmit the entire records to the file of transferee Court within a period of two weeks from the date of receipt of a copy of this order. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To,

1.The Subordinate Judge, Kancheepuram.

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

+One cc to Mr.S.Balaji, Advocate, SR.No.30598

+One cc to Mr.C.Vakeeswaran, Advocate, SR.No.30832

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RL/5C/2P/ARK/PV/SARI/28/6/2016

Tr.CMP(MD)No.153 of 2016 and
CMP.(MD)No.2639 of 2016