



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

CORAM:

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

Tr.C.M.P(MD)No.2 of 2016 and CMP(MD)No.125 of 2016

WEB COPY

T.P.Rajeshwari

: Petitioner/Respondent

Vs.

K.S.Radhakrishnan

: Respondent/Petitioner

Prayer: This petition is filed under Section 24 of the Civil Procedure Code, to withdraw the petition in HMOP No.89 of 2015 on the file of the Subordinate Judge, Hosur, Krishnagiri District and transfer the same to the Court of the Principal Subordinate Judge, Nagercoil, Kanyakumari District or pass such further or other suitable order.

For Petitioner : Mr.E.V.N.Siva

For respondent : Mr.P.Pethu Rajesh

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.89 of 2015 on the file of the Subordinate Judge, Hosur and to transfer the same to the Court of the Principal Subordinate Judge, Nagercoil at Kanyakumari District.

2.According to the petitioner, the marriage between her and the respondent was solemnized on 12.09.2014 at Krishnan Kovil, Nagercoil, Kanyakumari District and during the lawful wedlock, she got pregnant and it was aborted at the instance of the respondent and his family members and she was also subject to cruelty. In a short span of time, the respondent went to Saudi Arabia and thereafter, the petitioner is residing with her parents. While so, the respondent issued a notice, dated 25.05.2015, for which she gave a reply, dated 13.06.2015. The petitioner would further state that the respondent filed HMOP No.89 of 2015 for declaration declaring that the marriage is null and void with false and frivolous allegations.

3.The petitioner would further state that both the petitioner and the respondent are permanent residents of Nagercoil, however, with a view to harass the petitioner, he filed a petition for dissolution of marriage before the Subordinate Judge, Hosur and that she is a homemaker and she depends upon her parents for her livelihood. So, it will be difficult for her to travel about 1100 kms to defend the case at Hosur.

4.The respondent filed a detailed counter denying the allegations made by the petitioner stating that the appearance of the petitioner before the trial court is not necessary, as she had engaged a counsel to look after her case and prayed for dismissal of the transfer petition.



5. When the petition came up for hearing on 14.06.2016, it was represented that some of the original certificates and articles are still available with the respondent and it was also admitted by the respondent in the counter.

6. Mr. P. Pethu Rajesh, learned counsel appearing for the respondent has fairly submitted that the entire certificates and one gold necklace left by the petitioner has been handed over to her.

7. A joint memo, dated 25.06.2015 has been filed, signed by the both parties and their respective counsel stating that 15 certificates and one gold necklace were already handed over to the petitioner. In para 4 of the joint memo, it has been stated as follows:-

"4. It is submitted that the petitioner herein consciously accepted and receive all the above mentioned documents and articles in the schedule without going into the merits of the case and without admitting or disputing the actual claims of remaining jewels, household articles, dresses of the petitioner and the respondent. The petitioner and respondent hereby acknowledge the above items and put their signature in this joint memo before their respective advocates."

8. It is settled law that while considering the transfer petition in the case arising out of matrimonial disputes, the convenience of the wife has to be given preference.

9. Considering the above facts, this petition is allowed and the petition in HMOP No.89 of 2015 is ordered to be withdrawn from the file of the Sub Judge, Hosur, Krishnagiri District and transferred to the file of the Family Court, Tirunelveli. 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 and the transferee Court, after obtaining the records on transfer, is directed to dispose the matter within a period of three months thereafter. 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, Hosur, Krishnagiri District.

2. The Judge, Family Court,
Tirunelveli.

+1cc to M/S.P. Pethu Rajesh, Advocate in SR.No.32912

+1cc to M/S.M.V.N. Siva, Advocate in SR.No.33305

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