



WEB COPY

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.208 of 2016

and

CMP (MD) No.3804 of 2016

S.Shalini : Petitioner/Respondent
Vs.

R.Suresh : Respondent/Petitioner

Prayer: This petition is filed under Section 24 of the Civil Procedure Code, to withdraw the case in IDOP No.367 of 2016 from the file of the Family Court, Chennai and transfer the same to the file of the Family Court, Tirunelveli for disposal of the same on merits and in accordance with law and pass such further or other orders.

For Petitioner : Mr.M.Sankar

For Respondent : Mr.M.Vijayakumar

O R D E R

This petition has been filed under Section 24 of the Civil Procedure Code to withdraw the case in IDOP No.367 of 2016 from the file of the Family Court, Chennai and transfer the same to the file of the Family Court, Tirunelveli.

2.The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 24.01.2007; that the respondent filed IDOP No.367 of 2016 before the Family Court, Chennai for divorce as against the petitioner and that since, the petitioner is physically weak, she has been taking treatment for her health staying along with her parents at Tirunelveli, she could not travel to the distance of more than 650 kms to attend the hearing of the case. Further, she is also having life threat at Chennai and prays for transfer the case.

3.Per contra, learned counsel appearing for the respondent would submit that the petitioner received summons to attend the case on 09.03.2016 and after attending one hearing, the present application was filed with an ulterior motive. It is further submitted that to establish her health condition, no proof was filed and that the respondent is a diabetic patient and if the case is transferred from Chennai to Tirunelveli, his interest would be prejudiced.

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

5.It is settled law in the case of material disputes, the service court in the wife has to be given preference.



6. Considering the above facts, this petition is allowed and the petition in IDOP No.367 of 2016 is ordered to be withdrawn from the file of the Family Court, Chennai and transferred to the file of the learned Family Court, Tirunelveli.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 as expeditiously as possible. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Judge,Family Court,
Chennai.

2.The Judge, Family Court,
Tirunelveli.

+1cc to M/S.M.Vijayakumar,Advocate in SR.No.33251

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