



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2016

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.(MD)No.211 of 2016

and

C.M.P.(MD)No.3858 of 2016

Ramu, W/o.Pasupathi

... Petitioner

Vs.

M.Pasupathi

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.262 of 2015 from file of the Family Court, Tirunelveli and to transfer the same to the file of the Principal Subordinate Court, Tiruppur.

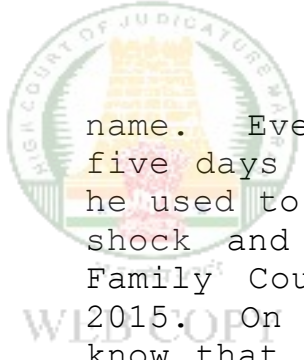
For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.P.Pethu Rajesh

ORDER

This petition has been filed by the petitioner/wife to withdraw and transfer the proceeding in H.M.O.P.No.262 of 2015 from file of the Family Court, Tirunelveli, to file of the Principal Subordinate Court, Tiruppur.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 27.03.2006. After the marriage, both the petitioner and the respondent were residing at Tirunelveli. It is averred in this petition that right from the beginning, the respondent was not true to the petitioner and suppressed his educational qualification. As a matter of fact, the respondent was jobless and only with the aid of the petitioner's brother, he was able to pursue his higher studies and finally, able to secure a job at Vishakapattinam. Prior to that, he was residing only at Tiruppur. A male child was born on 18.03.2007 in the wedlock. After the birth of the child, both were residing at Vishakapattinam and within a short span of time, the respondent got an opportunity to work in abroad and he went to Singapore in the month of November 2007. The respondent did not choose to take care of the child or her child, in spite of receiving huge salary and he has also acquired various properties in his



name. Even when he visited India, he used to stay only minimum five days in the residence at Tiruppur and the remaining 25 days, he used to stay at Tirunelveli with his parents. While so, to her shock and surprise, the petitioner received a notice from the Family Court, Tirunelveli, for appearance in H.M.O.P.No.262 of 2015. On a perusal of the petition filed, the petitioner came to know that the respondent has filed an application for divorce, on the ground of cruelty with untenable allegations. The petitioner has already entered appearance and also filed a detailed counter statement. Now, the petitioner is residing at Tiruppur with her minor son in her parents house and is not in a position to defend the proceedings at Tirunelveli effectively. As a matter of fact, due to her son's illness, as he was affected with dengue fever, she was not able to attend the conciliation proceedings.

3. In view of cruelty as well as the intolerant attitude of the respondent as well as his family members, the petitioner has filed D.V.A.No.27 of 2015 before the Judicial Magistrate Court No.II, Tiruppur and the same is pending. The petitioner has also filed Tr.C.M.P.No.33 of 2016 before the Principal Bench of this Court. However, at the time of admission, the Principal Bench of this Court did not entertain the same, as the petitioner could file the Tr.C.M.P. before this Court.

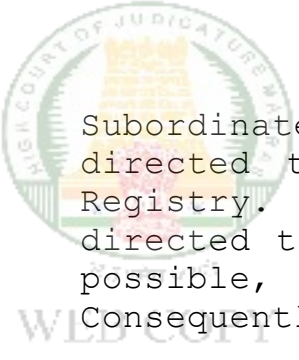
4. According to the petitioner, the distance between Tiruppur and Tirunelveli is more than 350 Kilometers. It is very difficult for her to appear before the Family Court at Tirunelveli, for each and every hearing. Therefore, she has come out with the present petition to withdraw the case in H.M.O.P.No.262 of 2015 from the file of the Family Court, Tirunelveli, and transfer the same to file of the Principal Subordinate Court, Tiruppur.

5. The learned counsel for the respondent submitted that it will not be difficult for the petitioner to travel from Tiruppur to Tirunelveli and prayed for early disposal of H.M.O.P.

6. I have heard the learned counsel appearing for the parties.

7. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. 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.262 of 2015 on the file of the Family Court, Tirunelveli, is hereby withdrawn, if the same is not yet disposed of and transferred to the file of the Principal Subordinate Court at Tiruppur. The learned Judge, Family Court, Tirunelveli, is directed to send the case bundles to the Principal



Subordinate Court, Tiruppur, immediately. The Registry is also directed to send back the papers that are pending before the Registry. The learned Principal Subordinate Judge, Tiruppur, is directed to dispose of H.M.O.P.No.262 of 2015 as expeditiously as possible, in any event, not later than 30.11.2016. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Judge,
Family Court,
Tirunelveli.

2.The Principal Subordinate Judge,
Tiruppur.

+1cc to Mr.M.P.Senthil, Advocate SR.No.22148

+1cc to Mr.P.Pethu Rajesh, Advocate SR.No.21983

Copy to:The Section Officer,
Judicial Department,
Madurai Bench of Madras High court, Madurai

+1cc to Mr.P.Pethu Rajesh, Advocate SR.No.21983

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