



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.06.2016

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

Tr.C.M.P. (MD) .No.252 of 2016

and

C.M.P. (MD) .No.5078 of 2016

J.Kamalakaran

.. Petitioner

vs.

K.K.Backialakshmi

.. Respondent

Prayer: This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.84 of 2015 on the file of the Subordinate Judge, Trichy and transfer the same to the file of the Subordinate Judge, Dindigul to be tried along with H.M.O.P.No.58 of 2015.

For Petitioner :Mr.D.Selvaraj

For Respondent :Mr.A.Hajamohideen

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.84 of 2015 from the file of the Subordinate Judge, Trichy and transfer the same to the file of the Subordinate Judge, Dindigul, to be tried along with H.M.O.P.No.58 of 2015.

2.Heard Mr.D.Selvaraj, learned counsel appearing for the petitioner and Mr.A.Hajamohideen, learned counsel appearing for the respondent and perused the materials available on record.

3.The petitioner is the husband of the respondent. The marriage between the petitioner and the respondent was solemnized on 29.10.2006 and after the marriage, they begotten a female child.

4.The learned counsel for the petitioner would submit that the petitioner is a physically challenged person and now, he is unemployed. The respondent is working in the Revenue Department. The petitioner has filed H.M.O.P.No.58 of 2015 before the Subordinate Court, Dindigul, for restitution of conjugal rights, while the respondent filed H.M.O.P.No.84 of 2015, before the



Subordinate Court, Trichy, for divorce. The petitioner could not travel to both Courts to attend the proceedings and it is very difficult for him to travel from Dindigul to Trichy and further to avoid conflicting judgment, both the petitions have been tried together before the same Judge.

5.Per contra, the learned counsel for the respondent would submit that the child is under the custody of the respondent and it is very difficult for her to travel from Trichy to Dindigul, to contest the case.

6.5.It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. Moreover, in order to avoid conflicting decisions, both the cases have to be tried together by the same Court.

7.In such view of the matter, the transfer civil miscellaneous petition is allowed. The petition in H.M.O.P.No.58 of 2015 pending on the file of the Subordinate Court, Dindigul, is ordered to be withdrawn and transferred to the file of the Subordinate Court, Trichy, to be tried along with H.M.O.P.No.84 of 2015.

8.The learned Subordinate Judge, Dindigul is directed to transmit the entire records pertaining to the case in H.M.O.P.No.58 of 2015 to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. No costs. Consequently, the connected C.M.P is also closed.

9.The learned Subordinate Judge, Trichy, shall dispose both the cases as expeditiously as possible, preferably on or before, 31.12.2016.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge,Dindigul

2.The Subordinate Judge,Trichy.

+1cc to Mr.D.SELVARAJ,Advocate Sr.No.33692

NS

AA/AAL-MPA/06.07.2016/2p-4c

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