



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2016

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

TR.C.M.P. (MD) .No.298 of 2016

and

C.M.P. (MD) No.5502 of 2016

Bindhu @ Rajalakshmi

.. Petitioner

Vs.

Gomathi Natarajan

.. Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.73 of 2016 from the file of the Principal Subordinate Court, Tenkasi and to transfer the same to the file of the Family Court, Tirunelveli to be tried along with H.M.O.P.No.49 of 2016.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.A.Anandhan

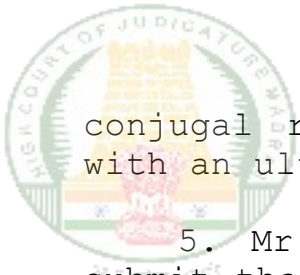
O R D E R

This Transfer Civil Miscellaneous petition is filed by the petitioner to withdraw H.M.O.P.No.73 of 2016 from the file of the the Principal Subordinate Court, Tenkasi and to transfer the same to the Family Court, Tirunelveli, for joint trial along with H.M.O.P.No.49 of 2016.

2. Heard, Mr.D.Venkatesh, learned counsel for the petitioner and Mr.A.Anandhan, learned counsel for the respondent and perused the records.

3. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 26.03.2001 at Tirunelveli. Out of the wedlock, they are blessed with two children.

4. The case of the petitioner is that the respondent by suppressing the fact that he was a divorcee, married the petitioner and when it was questioned, she was thrown away from the matrimonial home and she was also abused mentally and physically. So, the petitioner filed H.M.O.P.No.49 of 2016 for divorce before the Family Court, Tirunelveli. The respondent filed the petition in H.M.O.P.No.73 of 2016 for restitution of



conjugal rights before the Principal Subordinate Court, Tenkasi with an ulterior motive.

5. Mr.D.Venkatesh, learned counsel for the petitioner would submit that the petitioner is a lady and she is now residing with her parents along with two children. The petitioner is a homemaker and she is suffering financially and she could not engage an Advocate at Tenkasi to defend the case filed by the respondent.

6. Mr.A.Anandhan, learned counsel for the respondent would submit that the divorce petition filed by the petitioner in H.M.O.P.No.49 of 2016 was decreed after contest and this application was filed only to harass the respondent.

7. It is settled law and in the cases arise out of matrimonial disputes, the convenience of the wife shall be given preference.

8. In such view of the matter, the petition is allowed and the petition in H.M.O.P.No.73 of 2016 is ordered to be withdrawn from the file of the learned Principal Subordinate Judge, Tenkasi and transferred to the file of the learned Judge, Family Court, Tirunelveli.

9. The learned Principal Subordinate Judge, Tenkasi is directed to transmit the entire records to the file of the learned Judge, Family Court, Tirunelveli within a period of two weeks from the date of receipt of a copy of this order and the learned Judge, Family Court, Tirunelveli, 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 (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge, Tenkasi.
2. The Judge, Family Court, Tirunelveli.

+1cc to Mr.D.VENKATESH, Advocate Sr.No. 47878

PMU

TE/SKS-RR : 20/09/2016 : 2P/4C

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