



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tr.C.M.P(MD) .No.308 of 2016

and

C.M.P(MD) No.5630 of 2016

P.Subapriya

.. Petitioner

Vs.

R.Ramachandran

.. Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No. 159 of 2014 on the file of the Sub Court, Kovilpatti and transfer the same to the file of the Family Court, Tirunelveli.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondent : Mr.S.Selvakumar

ORDER

This petition is filed to withdraw and transfer H.M.O.P.No.159 of 2014 from the file of the Sub Court, Kovilpatti, to the file of the Family Court, Tirunelveli.

2.The petitioner is the wife of the respondent and the marriage between them was solemnised on 29.03.2013 at Shenbagavalliamman Thirukovil at Kovilpatti as per Hindu rites and customs. During the lawful wedlock, they are blessed with a male child, namely, Krithikram.

3.According to the petitioner, the entire marriage expenses were borne by her parents and sufficient properties were also given as sridhana. However, subsequently, the respondent behaved in an indifferent manner and also harassed her. After the birth of the child, the respondent has totally neglected the petitioner and her efforts for re-union was covertured by the respondent and her in-laws. Therefore, she filed M.C.No.14 of 2015, under Domestic Violence Act, before the learned Judicial Magistrate No.I, Tirunelveli. She also filed H.M.O.P.No.123 of 2016 before the Family Court, Tirunelveli, for restitution of conjugal rights.

4. The case of the petitioner is that the respondent filed H.M.O.P.No.159 of 2014, for divorce, before the Sub Court, Kovilpatti, by making false and frivolous allegations against her.



5.Mr.P.T.Ramesh Raja, learned counsel appearing for the petitioner would submit that the petitioner is an young lady, aged 26 years and she is now residing with her parents at Tirunelveli and she is having custody of the minor child, aged about 3 years. He further added that the issues involved in both the petitions are one and the same and to avoid conflicting decisions, both cases may be tried by the same Judge.

6.Per contra, Mr.S.Selvakuamar, learned counsel appearing for the respondent would submit that the entire allegations of the petitioner are false and the respondent filed H.M.O.P.No.159 of 2014 for divorce, in the year 2014, and only in the year 2016, the petitioner has filed H.M.O.P.No.123 of 2016, for restitution of conjugal rights and if the case is transferred, it would cause inconvenience to the respondent.

7. It is settled law that in matrimonial disputes, in transfer applications, convenience of the wife has to be given preference.

8. In such view of the matter, this Transfer Civil Miscellaneous Petition is allowed. The learned Sub Judge, Kovilpatti is directed to transmit the case records in H.M.O.P.No.159 of 2014, 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 after obtaining the records on transfer, the learned Judge, Family Court, Tirunelveli, shall try both cases jointly and dispose of the same, as expeditiously as possible. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/
Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Kovilpatti.
- 2.The Judge, Family Court, Tirunelveli.

Tr.C.M.P (MD) No.308 of 2016
19.08.2016

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