



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tr.C.M.P.(MD).No.331 of 2016
and C.M.P.(MD) No. 6234 of 2016

S.Sadhana .. Petitioner/Respondent

Vs.

M.Saravanan .. Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw the case O.P.No.2140 of 2015 on the file of the 1st Additional Family Court, Chennai and transfer the same to the file of Sub Court, Uthamapalayam and be jointly tried along with the H.M.O.P.No.23 of 2015 on the file of the Sub Court, Uthamapalayam.

For Petitioner : Mr.S.Kadarkarai

For Respondent : Mr.K.Rajeswaran

O R D E R

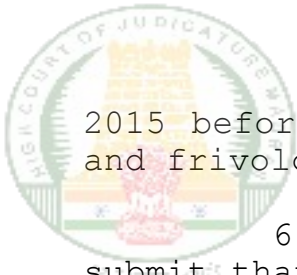
This Transfer Civil Miscellaneous Petition is filed to withdraw O.P.No.2140 of 2015 on the file of the 1st Additional Family Court, Chennai and transfer the same to the Sub Court, Uthamapalayam, to be tried along with H.M.O.P.No.23 of 2015.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3..The wife of the respondent is the petitioner. The marriage was solemnized between them on 07.02.2011 at Maruvarashi Mahal in Cumbum as per Hindu rites and customs.

4. The case of the petitioner is that from inception of the marriage, her in-laws were not kind and affectionate to her and she was ill-treated by them, which was ignored by the respondent. So, she started living with her parents at Theni and filed H.M.O.P.No.23 of 2015 against the respondent before the Sub Court, Uthamapalayam for divorce.

5. The petitioner would further submit that after receiving summons in the divorce petition, the respondent filed O.P.No.1241 of



2015 before the 1st Additional Family Court, Chennai with the false and frivolous allegations.

6. Mr.Kadarkarai, learned counsel for the petitioner would submit that the petitioner is an young lady aged about 29 years old and she cannot travel to a distance of 500 kms to defend the caes filed in Chennai. The petitioner is a destitute woman without any source of income entirely depending upon her parents for her livelihood and the issues involved in both the cases are same. In the interest of justice and to avoid conflicting decision both the cases have to be tried by the same Judge.

7. Per contra, Mr.K.Rajeswaran, learned counsel for the respondent would submit that the transfer application is filed with an intention to harass the respondent and the petitioner has not made out the case for transfer the case.

8. It is settled law that while considering the cases arising out of matrimonial dispute, convenience of the wife has to be given preference.

9. In view of the above, the learned Judge, 1st Additional Family Court, Chennai, is directed to transmit the entire records to the file of the Sub Court, Uthamapalayam within a period of two weeks from the date of receipt of copy of this order and the learned Subordinate Judge, Uthamapalayam after obtaining the records on transfer, is directed to try O.P.No.2140 of 2015 and H.M.O.P.No. 23 of 2015 together and dispose of the matters as expeditiously as possible.

10. In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected M.P.(MD) No.6234 of 2016 is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

CM

To

1.The 1st Additional Family Court, Chennai.

2.The Sub Court, Uthamapalayam.

+1 cc to Mr.K.RAJESWARAN ,Advocate, Sr.No: 44293

+1 cc to Mr.S.KADARKARAI ,Advocate, Sr.No: 43559

jam/18.08.16/SS 3/ 2P-5C

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