



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2016

CORAM

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

Tr.C.M.P(MD)No.417 of 2016 and
C.M.P.(MD).No.8234 of 2016

M.Ganesan

... Petitioner

Vs.

Muthu Bhuvaneswari

... Respondent

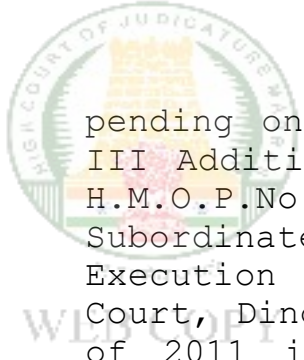
Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw E.P.No.168 of 2013 pending before Sub Court, Dindigul and to transfer the same to the file of 3rd Additional Subordinate Judge, Madurai to be tried along with I.A.No.92 of 2015 in H.M.O.P.No.229 of 2010 and H.M.O.P.No.544 of 2013 and H.M.O.P.No.23 of 2015.

For Petitioner : Mr.D.Selvaraj
For Respondent : No appearance

ORDER

The present petition for transfer is filed to transfer E.P.No.168 of 2013 pending before the Subordinate Court, Dindigul to the III Additional Subordinate Court, Madurai.

2.The facts in nutshell is that the marriage between the petitioner and respondent was solemnized on 02.07.2006 and out of the wedlock two children were born. Due to strained relationship between the parties, the wife left the matrimonial home and residing with her parents. The petitioner filed H.M.O.P.No.229 of 2010 for restitution of conjugal rights before the Subordinate Court, Dindigul and during the pendency of the petition, the respondent filed an application under Section 24 of Hindu Marriage Act, claiming interim alimony in I.A.No.64 of 2011 before the Subordinate Court, Dindigul. The H.M.O.P.No.229 of 2010 filed for restitution of conjugal rights filed by the petitioner was dismissed for default on 09.07.2013. Subsequently, H.M.O.P.No.203 of 2013 was filed by the petitioner before the Subordinate Court, Dindigul for divorce against the respondent. Thereafter, the respondent filed H.M.O.P.No.544 of 2013 for restitution of conjugal rights before the III Additional Sub Court, Madurai. The H.M.O.P.No.203 of 2013 filed before the Subordinate Court, Dindigul for divorce was transferred to the Family Court, Dindigul and renumbered as H.M.O.P.No.157 of 2014. In view of allowing of Tr.C.M.P.No.284 of 2014 by this Court, H.M.O.P.No.157 of 2014



pending on the file of Family Court, Dindigul was transferred to III Additional Subordinate Court, Madurai to be tried along with H.M.O.P.No.544 of 2013 pending on the file of III Additional Subordinate Court, Madurai. Meanwhile, the respondent filed Execution Petition in E.P.No.168 of 2013 before the Subordinate Court, Dindigul for execution of exparte order passed in I.A.No.64 of 2011 in H.M.O.P.No.229 of 2010 on the file of Subordinate Court, Dindigul.

3.The learned counsel for the petitioner submitted that all the cases filed by both by the petitioner and by the respondent are pending before the III Additional Subordinate Court, Madurai except the E.P.No.168 of 2013, which is pending before the Subordinate Court, Dindigul. Therefore, in the interest of both parties, the E.P.No.168 of 2013 also to be transferred to III Additional Subordinate Court, Madurai for effective adjudication.

4.Inspite of printing the name of the counsel for the respondent in the cause list, none appeared for the respondent.

5.Considering the facts and circumstances of the case that there are number of litigations pending between the petitioner and respondent and all those cases are pending before the III Additional Subordinate Court, Madurai for adjudication, this Court is inclined to consider the case of the petitioner.

6.Accordingly, this Transfer Civil Miscellaneous Petition is allowed and E.P.No.168 of 2013 pending on the file of the Subordinate Court, Dindigul is ordered to be transferred to the III Additional Subordinate Judge, Madurai forthwith to be tried along with I.A.No.92 of 2015 in H.M.O.P.No.229 of 2010 and H.M.O.P.No.544 of 2013 and H.M.O.P.No.23 of 2015. No costs. Consequently, C.M.P(MD)No.8234 of 2016 is closed.

Sd/-

Assistant Registrar(As)

/True copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Dindigul.

2.The III Additional Subordinate Judge, Madurai.

sj

sm:PV:22/11/2016:2P/3C

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