



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

Tr.C.M.P(MD)No.424 of 2016 and
C.M.P. (MD) .No.8398 of 2016

N.Padma

... Petitioner

Vs.

Muthuraja

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.534 of 2016 pending on the file of Family Court, Madurai and to transfer the same to the file of Family Court, Sivagangai.

For Petitioner	: Mr.J.John
For Respondent	: Mr.S.Premkumar

ORDER

The marriage between the petitioner and respondent has been solemnized on 29.05.2015 as per the Hindu rites and customs at Alavakottai, Sivagangai. Due to strained relationship between the parties, they are living separately. The contention of the petitioner is that she filed H.M.O.P.No.49 of 2016 before the Family Court, Sivagangai. Subsequently, the respondent filed H.M.O.P.No.534 of 2016 before the Family Court, Madurai for divorce. Now, the transfer petition is filed by the petitioner seeking transfer of H.M.O.P.No.534 of 2016 from the file of Family Court, Madurai to Family Court, Sivagangai. The learned counsel for the petitioner would submit that the petitioner is now employed and residing at Mumbai and respondent is residing at Chennai. Both are not residing either at Mumbai or Chennai.

2.The learned counsel for the respondent opposed the petition by stating that the present petition for transfer is to be dismissed on the ground that the petitioner is working at Mumbai staying along with her mother and there is no much difference for her to attend the Courts either at Madurai or Shivagangai and the present petition is filed only with an idea to harass the respondent.



3.Considering the facts and circumstances of the case, it makes less difference whether the case is adjudicated before the Court at Madurai or at Shivaganga.

4.The learned counsel for the petitioner cited the Madhya Pradesh High Court in **Balvir Singh Gurjar @ Rinku v. Nitu [I (2016) DMC 225 (MP)]**, wherein it is held as follows:

"8. .. A Division Bench of Bombay High Court in (2010) 1 Bom CR 226, Sanjeev Indravadan Dani v. Mrs. Rupal Sanjeev Dani has taken the same view. A.M. Khanwilkar, J. (as His Lordship then was) in the said case opined that "the Supreme Court has interpreted the purport of Section 21A to mean that it cannot be regarded as exhaustive; for the marginal note clearly suggests that the section deals with power to transfer petitions and direct their joint and consolidated trial "in certain cases". It is profitable to note that in case of Sanjiv Indravadan Dani (supra), one petition was filed by husband for restitution of conjugal right whereas another petition was filed by the wife seeking divorce on the ground of cruelty and desertion.

9.In view of aforesaid legal position, it can be safely concluded that the point involved in this matter is no mere *res integra*. Section 21A covers the cases filed under Section 9 of the Act. Thus, by operation of Section 21 of the Act, the subsequent petition must be transferred."

5.The facts and circumstances of the present case cannot be considered as similar to that of the case cited supra and therefore, the same cannot be considered in this case.

6.In view of the above, the case of the petitioner deserves no consideration and accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, C.M.P(MD)No.8398 of 2016 is also dismissed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To
The Judge, Family Court, Madurai.

+1 CC to Mr.J.JOHN, Advocate, SR No.64873

+1 CC to Mr.PREMKUMAR, Advocate, SR No.65434

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