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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
TR.CMP(MD)Nos.7 and 138 of 2016

and
C.M.P(MD)No.166 of 2016

TR.CMP(MD)No.7 of 2016

1) Pandian
2) P.Pounthai

... Petitioners/Respondents

vs.

R.Divya

... Respondent/Petitioner

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the GWOP No.22 of 2015 pending before the learned Principal District Judge, Theni, and to transfer the same to the file of the learned Family Judge, Madurai.

For Petitioner : Mr.V.A.Dhana Aravindha Balaji
for M/s.Dhana Law Associates
For Respondent : Mr.K.Muthu Ganesa Pandian

TR.CMP(MD)No.138 of 2016

R.Divya

... Petitioner/Respondent

vs.

P.Pounthai

... Respondent/Petitioner

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the G.W.O.P.No.19 of 2015 pending on the file of the Family Court, Madurai, and transfer to the file of Principal District & Sessions Judge, Theni, to be tried along with G.W.O.P.No.22 of 2015 pending on the file of Principal District & Sessions Judge, Theni.

For Petitioner : Mr.K.Muthu Ganesa Pandian
For Respondent : Mr.V.A.Dhana Aravindha Balaji
for M/s.Dhana Law Associates

COMMON ORDER

TR.CMP(MD)No.7 of 2016 has been filed to transfer GWOP No.22 of 2015 pending on the file of the Principal District Court, Theni, to the file of the Family Court, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

TR.CMP(MD)No.138 of 2016 has been filed to transfer G.W.O.P.No.19 of 2015 on the file of the Family Court, Madurai, to



the file of Principal District & Sessions Judge, Theni, to be tried along with G.W.O.P.No.22 of 2015 pending on the file of Principal District & Sessions Judge, Theni.

2.The short facts necessary for disposal of TR.CMP(MD)No.7 of 2016 is that the petitioners are paternal grand parents of the minor female child A.Harsha Vardhini and the petitioners have contended that their son namely, P.Anna Prabhu married the respondent on 22.08.2010 and out of the wedlock, a female child was born. Subsequently, the son of the petitioners was murdered and a criminal case was registered in Crime No.183 of 2015, under Section 302 IPC and the respondent is arrayed as Accused No.3 and it is pertinent to note that already charge sheet has been filed wherein, the involvement of the respondent is also specified. Further, the petitioners contended that the minor child is under their custody for more than 1½ years and the respondent is facing criminal trial at Theni and she had filed GWOP No.22 of 2015, for custody of the minor child. It is stated that the paternal grand parents also filed G.W.O.P.No.19 of 2015 on the file of the Family Court, Madurai, seeking custody of the minor female child A.Harsha Vardhini.

3.The learned counsel for the respondent opposed TR.CMP(MD) No.7 of 2016 by stating that the criminal case is no way connected with GWOP No.22 of 2015 and custody of the minor child is with the paternal grand parents for more than 1½ years and the respondent is the natural guardian and entitled for custody and therefore, this petition deserves no consideration and liable to be dismissed.

4.This Court considered the rival contentions raised by the learned counsels both for the petitioner and the respondent. The fact remains that the minor female child is in the custody of the petitioners/paternal grandparents, for more than 1½ years and now the child is aged about 5 years and able to know the consequences. Further, it is represented by the learned counsel for the petitioners that after the involvement of the respondent in the murder case, the custody of the child is with the petitioners and in fact, the child is also a witness for the offence of murder.

5.Without going into the merits and demerits of the criminal case and considering the welfare of the minor girl child and the fact that the petitioners are paternal grandparents, this Court is of the opinion that this petition deserves consideration. Accordingly, TR.CMP(MD)No.7 of 2016 is allowed and GWOP No.22 of 2015 pending on the file of the Principal District Court, Theni, is ordered to be transferred to the Family Court, Madurai and the same shall be tried along with G.W.O.P.No.19 of 2015.



In view of the order passed in TR.CMP(MD)No.7 of 2016 allowing the said petition, TR.CMP(MD)No.138 of 2016 is dismissed. No costs. Consequently, C.M.P(MD)No.166 of 2016 is closed.

Sd/-

Assistant Registrar(CO)

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/True copy/

Sub Assistant Registrar

To

1)The Principal District and Sessions Judge,
Theni.

2)The Juge,
Family Court, Madurai.

+1 cc to M/s.Dhana Aravindha Balaji, Advocate in SR.No. 66466

nbi

CSL/DB/18.11.2016: 3P/4C

TR.CMP(MD)Nos.7 and 138 of 2016

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