



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

TR.C.M.P(MD)No.9 of 2016
and
C.M.P(MD)No.208 of 2016

Mahalakshmi

... Petitioner

Vs.

S.Michael

... Respondent

Prayer: Petition filed under Section 24 of Civil Procedure Code to withdraw the original petition in I.D.O.P.No.14 of 2015 on the file of the Principal District Court, Tirunelveli and transfer the same to the Principal District Court, Tiruppur.

For Petitioner : Mr.J.Ashok
For Respondent : Mr.M.P.Senthil

ORDER

The present petition is filed seeking to withdraw the original petition in I.D.O.P.No.14 of 2015 on the file of the Principal District Court, Tirunelveli and transfer the same to the Principal District Court, Tiruppur.

2.The marriage between the petitioner and respondent was solemnized on 07.02.2011, as per Christian Rites and Customs in Soundirapandiapuram. Due to the strained relationship between the parties, the petitioner left the matrimonial home and presently living with her parents at Kankeyam Town, Tiruppur District.

3.The contention of the petitioner is that when the petitioner is living with her parents, the respondent filed I.D.O.P.No.14 of 2015 before the Principal District Court, Tirunelveli, for divorce on the ground of cruelty. Further, the petitioner states that she is now residing in Kankeyam Town, Tiruppur District, which is 400 kms away from Tirunelveli and she is unemployed and not in a position to spend and travel to defend the case at Tirunelveli.

4.The learned counsel appearing for the respondent vehemently opposed by stating that the petitioner is employed in Tiruppur in a Garments factory and she is in a position to defend the case at



Tirunelveli. Further, the learned counsel contended that the petitioner left the matrimonial home at her own volition and not at the instance of the respondent. Therefore, she is at fault and the petition has to be dismissed on that ground.

5.The respective counsels both for the petitioner and the respondent are heard.

6.Considering the facts and circumstances of the case and the rival contentions argued by both the learned counsel for the petitioner and the respondent, this Court is of the view that the place of women is to be considered for conducting trial in matrimonial matters. The principle was established by this Court in many decisions. Further, the petitioner is living along with her parents in Tiruppur and travelling to such a long place will be a hardship to the petitioner. Contrarily, the respondent, who filed the petition for divorce, will be interested in pursuing the petition in either of the place.

7.Considering the facts and circumstances of the case, this Court is inclined to consider the case of the petitioner and accordingly, this transfer Civil Miscellaneous Petition is allowed and I.D.O.P.No.14 of 2015 pending on the file of the Principal District Court, Tirunelveli, is ordered to be transferred to the file of the Principal District Court, Tiruppur forthwith. No costs. Consequently, connected Miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge, Tirunelveli.
2. The Principal District Judge, Tiruppur.

+ 1 CC TO JAYAPPAUL ASSOCIATES IN SR No. 63559
+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 63657

PS

TE/SKS-RR : 09/11/2016 : 2P/5C

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