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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

TR.CMP(MD)Nos.91 to 93 of 2016

P.F.Sumaiyya Banu

... Petitioner in all cases

vs.

1) Syed Mohammed Maheen
2) The Manager,
City Union Bank Ltd.,
Kulasekharam.

... Respondents in TR.CMP.91/16

1) Syed Mohammed Maheen
2) Peer Mohamed
3) Mohamed Manoj

... Respondents in TR.CMP.92/16

Syed Mohammed Maheen

... Respondent in TR.CMP.93/16

Prayer in TR.CMP.91/16 : Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the maintenance suit in O.S.No.121 of 2013 on the file of the District Court, Nagercoil, and try along with GWOP.No.217 of 2014 on the file of the District Court, Nagercoil.

Prayer in TR.CMP.92/16 : Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the suit in O.S.No.296 of 2013 on the file of the District Munsif Court, Panmanabhapuram to District Court, Nagercoil and try along with GWOP.No.217 of 2014 on the file of the District Court, Nagercoil.

Prayer in TR.CMP.93/16 : Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the maintenance suit in O.S.No.336 of 2014 on the file of the District Munsif Court, Panmanabhapuram to District Court, Nagercoil and try along with GWOP.No.217 of 2014 on the file of the District Court, Nagercoil.

For Petitioner(in all cases) : Mr.A.Arumugam for

M/s.Ajmal Associates

For R1(in all cases)

: Mr.S.Meenakshi Sundaram

For R2(in TRCMP.91/16)

: Mr.K.Muraleedharan

COMMON ORDER

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

The facts and submissions in all the three cases are common and therefore, all these petitions are heard and disposed of by



this common order.

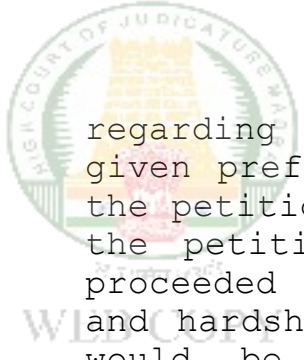
2.The marriage between the petitioner and the 1st respondent/Syed Mohammed Maheen was solemnized on 17.06.2001 as per the Muslim rites and customs and out of the wedlock, three male children and one female child were born in the years 2003, 2005, 2007 and 2009 respectively. The 1st respondent was working in abroad till 2009 and he returned to his native and was doing real estate business. While so, the 1st respondent started harassing the petitioner saying that the petitioner has mental disorder and took her to mental hospital. The petitioner was also assaulted and brutally tortured by the 1st respondent. Therefore, the petitioner preferred a complaint before the Kulasekaram Police Station and the same was registered in Crime No.375 of 2013 and pending on the file of the Judicial Magistrate Court, Padmanabhapuram.

3.It is the further contention of the petitioner that the 1st respondent was not maintaining her and unlawfully took away the custody of four children and filed O.S.No.121 of 2013 on the file of the District Court, Nagercoil, against the petitioner for a declaration declaring that the amount deposited in the name of the petitioner/Sumaiyya Banu belonged to him and to permit the 1st respondent to withdraw the same and the consequential relief of permanent injunction restraining the petitioner from withdrawing the said amount. The 1st respondent also filed one another suit in O.S.No.296 of 2013 on the file of the District Munsif Court, Panmanabhapuram, for a permanent injunction restraining the defendants and their men from disturbing the plaintiff's peaceful possession and enjoyment of the plaint schedule properties. While so, the petitioner filed O.S.No.336 of 2014 on the file of the District Munsif Court, Panmanabhapuram, seeking maintenance and also filed GWOP.No.217 of 2014 before the District Court, Kanyakumari at Nagercoil, to order custody of her four minor children with her.

4.The present petitions have been filed to transfer the above suits to the District Court, Nagercoil, for a joint trial along with GWOP.No.217 of 2014, stating that all the suits revolve around the matrimonial life of the petitioner and the 1st respondent and further, if the proceedings are conducted in different courts, there will be a conflicting decision. Further, the petitioner is not having any independent sources of income to defend the suits filed by the 1st respondent.

5.The counsel for the 1st respondent made submissions opposing these petitions for transfer.

6.Considering the facts and circumstances of these cases and the well settled legal position that in transfer petitions



regarding matrimonial disputes, convenience of the wife shall be given preference, and this Court is of the view that the case of the petitioner deserves to be considered. As rightly contended by the petitioner, if three suit proceedings are permitted to be proceeded in three different forums, it would cause inconvenience and hardship to both the parties and a joint trial of the suits would be appropriate for speedy trial and also to avoid conflicting decisions. Accordingly, all these Transfer Civil Miscellaneous Petitions are allowed and O.S.No.121 of 2013 on the file of the District Court, Nagercoil, O.S.No.296 of 2013 on the file of the District Munsif Court, Panmanabhapuram and O.S.No.336 of 2014 on the file of the District Munsif Court, Panmanabhapuram, are ordered to be transferred to the District Court, Nagercoil, for a joint trial along with GWOP.No.217 of 2014 on the file of the District Court, Nagercoil, forthwith. No costs.

Sd/-

Assistant Registrar(Record)

/True Copy/

Sub Assistant Registrar
25.10.2016

nbi

To

1)The District Judge,
Nagercoil.

2)The District Munsif,
Padmanabhapuram.

+1cc to M/S AJAML ASSOCIATES Advocate Sr.No. 63791

+1cc to Mr.S.Meenakshi Sundaram Advocate Sr.No.63761

JAM/09.11.16/SS 2/3p-5c

TR.CMP(MD)Nos.91 to 93 of 2016
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