



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.C.M.P(MD)No.139 of 2017

and

C.M.P(MD)No.3156 of 2017

Soundar ... Petitioner/Respondent
Vs.

Uma Parameswari ... Respondent/Petitioner

Prayer: Petition filed under Section 24 of Civil Procedure Code to withdraw and transfer the proceedings in H.M.O.P.No.260 of 2016 pending on the file of the Family Court, Tirunelveli to the Family Court, Madurai or any other competent Court at Madurai.

For Petitioner : Mr.K.Vamanan
For Respondent : Ms.P.Sepana @ Sree
* * * * *

O R D E R

It is stated that H.M.O.P.NO.260 of 2016 filed by the wife seeking restitution of conjugal rights before the Family Court, Tirunelveli was allowed exparte on 17.02.2017. An application filed by the husband seeking to set aside the said exparte order is pending before the Family Court, Tirunelveli.

2. It is also not in dispute that H.M.O.P.No.127 of 2015 filed by the husband seeking divorce is pending on the file of the Family Court, Madurai. The request of the wife for transfer of the said H.M.O.P. from the Family Court, Madurai to the Family Court, Tirunelveli has been rejected by this Court in Tr.C.M.P. (MD)NO.312 of 2016. It is stated that in the said H.M.O.P.No.127 of 2015, the wife was set exparte and she has also filed an application to set aside the said exparte order.

3. In the light of the above facts, now that H.M.O.P.No.260 of 2016 has been disposed of, this Transfer Civil Miscellaneous Petition is dismissed, reserving a liberty for the petitioner to seek transfer, if the exparte order in H.M.O.P.No.260 of 2016 is set aside by the Family Court, Tirunelveli. The Family Court, Tirunelveli would have done well to adopt a pragmatic approach in the light of the circumstances. The pendency of the petition for divorce and the request of the wife to transfer the petition to the Family Court, Tirunelveli has been rejected by this Court must be noted. It would have been in the interest of justice, if the Family Court had not hurried into passing an order of restitution because of the absence of husband for one hearing.



No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To
1.The Family Court,
Tirunelveli.

2.The Family Court,
Madurai.

+1cc to Mr.K.Vamanan,Advocate,SR.54962

Tr.C.M.P (MD) No.139 of 2017
and
C.M.P (MD) No.3156 of 2017
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