



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2017

Coram:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P. (MD) .No.140 of 2017
and C.M.P. (MD) No.3157 of 2017

K.Jeyalakshmi

.. Petitioner/Petitioner

Vs.

M.Karthikeyan

.. Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure r/w 151 C.P.C praying to withdraw the case in H.M.O.P.No.17 of 2016 on the file of the Sub Court, Mettur and transfer the same to the file of Family Court, Trichy.

For Petitioner : Mr.V.Kumar
For Respondent : No appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking for transfer of H.M.O.P.No.17 of 2016, from the file of Sub Court, Mettur to the file of Family Court, Trichy.

2. Heard Mr.V.Kumar, learned counsel appearing for the petitioner. Though notice was served on the respondent, he has not appeared in person or through counsel.

3.In the affidavit filed by the petitioner, it is averred among other things that the petitioner was married to the respondent on 25.03.1996 as per Hindu Rites and Customs and at the time of marriage, the respondent received four sovereigns of Gold and household Articles including TV, Refrigerator and Cot worth about Rs.30,000/- by way of Srithanam.

4. The learned counsel for the petitioner would submit that the respondent is jobless person, having the habit of using alcohol and even after the marriage, the petitioner was put to mental and physical harassment and the respondent tortured the petitioner for want of dowry from the petitioner's parents.

5.It is also the case of the petitioner that her father had given a sum of Rs.70,000/- (Rupees Seventy Thousand only) for the purpose of getting job for the respondent and the petitioner and even during the time of pregnancy, the respondent had not taken care



of her and left the house for 10 or 15 days and therefore, the petitioner was forced to go to her parent's house.

6. The learned Counsel for the petitioner would submit that out of the wedlock, the petitioner gave birth to a female child on 13.12.2002. Even after the birth of child, the respondent did not turn up and not taking care of wife and child. Though the petitioner and her family members had approached the respondent on several occasions, the efforts had ended in vain.

7. After waiting for a long time, the petitioner filed a maintenance application in M.C.No.7 of 2009 before Judicial Magistrate, Thiruchengodu claiming maintenance for herself and her child. On the undertaking given by the respondent, the above said maintenance application was withdrawn. The case of the petitioner is that only to persuade the petitioner to withdraw the Maintenance Application, the respondent had taken the petitioner to home. Thereafter, the respondent/husband filed a petition for divorce in H.M.O.P.No.17 of 2016 on the file of Sub court, Mettur, for dissolving the marriage dated on 25.03.1996 without any valid reason. The petitioner appeared in person before the Sub Court, Mettur, along with the learned Counsel. The petitioner is residing with her child in her parents house and they were depending upon the old age parents, who are having ailments on their old age.

8. The learned Counsel for the petitioner would submit that the petitioner is not in a position to travel around 400 kilometers for attending the Court on the divorce petition filed by the respondent.

9. Considering the above stated circumstances, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Judge, Sub Court, Mettur, is directed to transmit the entire records in H.M.O.P.No.17 of 2016 to the file of the Family Court, Trichy, within a period of two weeks from the date of receipt of copy of this order

ii) the learned Judge, Family Court, Trichy, after obtaining the records on transfer, is directed to dispose of the matter as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.3157 of 2017 is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/



1.The Subordinate Judge, Mettur.

2.The Judge, Family Court, Trichy.

+ 1 CC TO Mr.V.KUMAR, ADVOCATE IN SR No. 64368

CM/TSG

TE/MR-KKR/SAR-II : 26/07/2017 : 3P/4C

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