



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBRAMANIAN

Tr.C.M.P. (MD). No.186 of 2017

and

C.M.P. (MD). Nos.4240 and 4241 of 2017

R.Anitta Gethzial

... Petitioner

vs.

J.Rathina Singh Joseph Thiyagaraj

... Respondent

Prayer: Appeal is filed under Section 24(b) of Civil Procedure Code, praying to withdraw the proceedings in I.D.O.P.No.16 of 2017 on the file of the Family Court, Madurai and to transfer the same to the file of the Family Court, Tirunelveli.

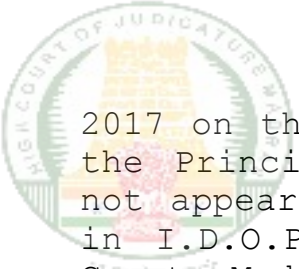
For Petitioner : Mr.N.Subramanian
For Respondent : Mr.K.Raja Prabhakaran
for Mr.J.Gunaseelan Muthiah

JUDGMENT

The husband has filed I.D.O.P.No.16 of 2017 seeking for restitution of conjugal rights on the file of the Family Court, Madurai. The wife has filed I.D.O.P.No.115 of 2017 seeking divorce on the file of the Family Court, Tirunelveli. She seeks transfer of the said proceedings to the file of the Family Court, Tirunelveli to be tried along with the I.D.O.P.No.115 of 2017.

2. While the petitioner's wife would contend that she finds difficult to travel from Tirunelveli to Madurai for every hearing, the respondent / husband would contend that his father aged about 70 years is bedridden and he has to take care of him his mother having died much prior to the marriage. Therefore, the learned Counsel for the respondent / husband would plead that both proceedings could be transferred Madurai so that he can discharge his duties to his father as well as to defend the proceedings.

3. Considering the fact that both the proceedings are pending in the Family Courts and the fact that it is difficult for the parties to attend the Family Court for every hearing, I deem it fit to Court may transfer the proceedings in I.D.O.P.No.115 of



2017 on the file of the Family Court, Tirunelveli to the file of the Principal District Court, Madurai, so that the parties need not appear for every hearing. The petition filed by the husband in I.D.O.P.No.16 of 2017 is pending on the file of the Family Court, Madurai. There is a possibility of conflicting Judgments if they are tried in two different Courts.

4. Hence in the interest of justice, invoking the power under Article 227 of the Constitution of India I.D.O.P.No.16 of 2017 is withdrawn from the file of the Family Court, Madurai and transferred to the file of the Principal District Court, Madurai to be tried along with I.D.O.P.No.115 of 2017 on the file of the Family Court, Tirunelveli which has been transferred to the Principal District Court, Madurai. The Family Court, Tirunelveli and the Family Court, Madurai are directed to despatch I.D.O.P.Nos.16 and 115 of 2017 respectively, to the file of the Principal District Court, Madurai.

4. The learned Principal District Judge is directed to dispose the above two petitions as expeditiously as possible. This Transfer Civil Miscellaneous Petition is disposed of as above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

/True copy/

Sub Assistant Registrar

To

1. The Principal District Judge, Madurai.
2. The Presiding Judge, Family Court, Madurai.
3. The Presiding Judge, Family Court, Tirunelveli.

+1 CC to M/s.N.Subramanian, Advocate, SR No. 61583/17.

+1 CC to Mr.J.Gunaseelan Muthiah, Advocate, SR No. 61175/17.

TSG/SM

PSM/MR-KKR/SAR2/04.07.2017/2P/6C

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