



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.06.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

TR.C.M.P(MD)No.203 of 2017
and
C.M.P(MD)No.4543 of 2017

Jayanthi

.. Petitioner

vs.

M.Selvam

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying this Court to withdraw the Petition in H.M.O.P.No.26 of 2017 from the file of Sub-Court, Veda sandur and transfer the same to the file of Family Court, Madurai.

For Petitioner	: M/s.K.Gokul
For Respondent	: No appearance

ORDER

The Petitioner, who is the wife seeks transfer of proceedings in H.M.O.P.No.26 of 2017, on the file of Sub-Court, Veda sandur to Family Court, Madurai.

2.The said proceedings in H.M.O.P.No.26 of 2017 was filed by the respondent/husband for divorce on the ground of cruelty and desertion. Though the Petitioner/wife is shown to be a resident of Chennai, it is also submitted at the bar that the wife after filing this Transfer Petition has filed H.M.O.P.No.379 of 2017 on the file of Family Court, Madurai, for restitution of conjugal rights..

3.Despite service notice, the respondent/husband has not chosen to appear before this Court either in person or through his counsel to contest this case.

4.Considering the distance between Veda sandur and Madurai, I do not think transfer to the place of convenience of the wife is warranted in this case. Presence of the parties before Family Court is required for every hearing, whereas in Sub-Court, the said requirement is not there. Therefore, it will be in the



convenience of the parties that the proceedings are conducted before the Sub-Court than the Family Court.

5.The learned counsel for the Petitioner requests that the proceedings may be transferred to Sub-Court which is nearer to Madurai as well as Vendasandur.

6.Hence the Transfer Civil Miscellaneous Petition is allowed and the proceedings in H.M.O.P.No.26 of 2017 are withdrawn from the file of Sub-Court, Vendasandur and transferred to the file of Sub-Court, Natham, which is situated in between Vendasandur and Madurai. H.M.O.P filed by the wife for restitution of conjugal rights in H.M.O.P.No.379 of 2017 before Family Court, Madurai cannot go on independently at Madurai. Therefore, in exercise of powers under Article 227 of the Constitution of India, the proceedings in H.M.O.P.No.379 of 2017 are withdrawn from the file of Family Court, Madurai and transferred to the file of Sub-Court, Natham to be heard along with H.M.O.P.No.26 of 2017, which has now been transferred from Vendasandur to Natham. The Sub-Court, Vendasandur and Family Court, Madurai are directed to despatch records in H.M.O.P.No.26 of 2017 and H.M.O.P.No.379 of 2017 respectively to Sub-Court Natham, within a period of two weeks from the date of receipt of a copy of this order. Registry is directed to send a copy of this order to Family Court, Madurai. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To:

1. The Judge, Family Court, Madurai.
2. The Subordinate Judge, Vendasandur.
3. The Subordinate Judge, Natham.

+1 CC to M/s.K.GOKUL, Advocate, SR No. 59323.

VSN

PSM/GT/SAR2/21.06.2017/2P/5C

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