



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2017

WEB COPY

CORAM :

THE HONOURABLE MR. JUSTICE S. BASKARAN

Tr.CMP. (MD) .No.303 of 2017
and
C.M.P. (MD) .No.6515 of 2017

R.Usharani ... Petitioner
vs.

S.Rajasekar ... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the case in H.M.O.P.No.208 of 2017 on the file of the learned Family Judge of Trichy and transfer the same to the Family Judge of Madurai to try along with M.C.No.69 of 2017.

For Petitioner : Mr.V.Sakthivel

For Respondent : No appearance

ORDER

The petitioner/wife has come forward with this petition seeking to withdraw the case in H.M.O.P.No.208 of 2017 on the file of the learned Judge, Family Court, Trichy and transfer the same to the learned Judge, Family Court, Madurai for joint trial along with M.C.No.69 of 2017 pending therein.

2.The petitioner/wife states that the marriage between the petitioner and the respondent took place on 25.05.2003 at Naidu Mahal, Near Murugan Theater, East Puliward Road, Trichy and out of the wedlock, she gave birth to three children and all of them are studying in different classes. The respondent, who was working in Border Security Force(Military) now retired and presently working as a Security Personal in BHEL, Trichy. After the marriage, both of them were living in the same place, where the respondent was served and retired from the service. Thereafter, the petitioner lived at Trichy with the respondent till October 2016. Afterwards, both of them were living together at Madurai, during the month of January, 2017, the respondent has not turned up and deserted the petitioner completely. The petitioner is always ready and willing to live with the respondent. Now, the petitioner is residing at Madurai along with three children.



3. However, the respondent has refused to live with the petitioner. The petitioner filed M.C.No.69 of 2017 on the file of the Family Court, Madurai seeking maintenance from the respondent for herself as well as her minor children. After attending the counselling before the Family Court, Madurai, the respondent filed H.M.O.P.No.208 of 2017 for restitution of conjugal rights on the file of the Family Court, Trichy under section 9 of Hindu Marriage Act and the same is now pending. The petitioner states that it is difficult to travel to Trichy from Madurai for each and every hearing. Further the petitioner states that she is not having any independent income and she is only depending on her parents. Hence, the petitioner seeks transfer of H.M.O.P.No.208 of 2017 from the file of Family Court, Trichy to the Family Court, Madurai.

4. In spite of notice being served on the respondent, he has not appeared either in person or through counsel.

5. In such circumstances, considering the fact that the already M.C.No.69 of 2017 is pending on the file of the Family Court, Madurai and the petitioner is residing at Madurai along with three children and as the children are going to school and the petitioner is having no source of income, the plea of the petitioner that it is difficult for her to travel to Trichy from Madurai for each and every hearing can be entertained. Hence, this Court is inclined to entertain the petition and the point is answered accordingly.

6. Accordingly, the Transfer Civil Miscellaneous petition is allowed. Consequently, H.M.O.P.No.208 of 2017 pending on the file of the Family Court, Trichy is transferred to the file of the Family Court, Madurai. The Family Court, Trichy is directed to transmit the entire records pertaining to the case in H.M.O.P.No.208 of 2017 to the Family Court, Madurai, within a week from the date of receipt of a copy of this order. As and when such records are received from the Court concerned, the learned Family Court Judge, Madurai is directed to dispose of H.M.O.P.No.208 of 2017 along with M.C.No.69 of 2017 as expeditiously as possible. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1.The Family Court, Trichy.

2.The Family Court, Madurai.

+1cc to Mr.V.Sakthivel, Advocate Sr.No.86161

PSD

VB/MR/KKR/SAR1/29/11/2017/3P/4C

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