

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on :21.09.2017
Pronounced on: 21.11.2017

WEB COPY

CORAM**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

TR.C.M.P (MD) No.332 of 2017
AND
CMP (MD) No.6999 of 2017

A.Buvaneswari

... Petitioner/Respondent

Vs

S.R.Sivaganesh

... Respondent/petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.381 of 2017 on the file of the Family Court, Madurai and transfer the same to any other competent court at Sivagangai.

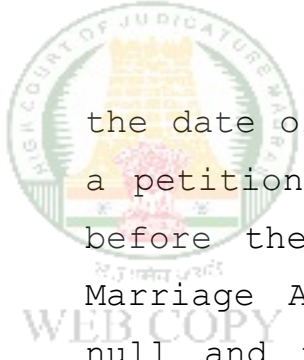
For Petitioner : Mr.S.Srinivasa Raghavan
For Respondent : Mr.C.M.Arumugam

ORDER

This petition has been filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.381 of 2017 pending on the file of the Family Court, Madurai and transfer the same to any other competent court at Sivagangai.

2. The short facts which are necessary to dispose of the transfer civil miscellaneous petition are discussed hereunder:-

2.1. The petitioner would aver among other things that the marriage between the petitioner and the respondent took place 16.06.2016 at Sivagangai. Due to difference of opinion, it is alleged that they are living separately after three months from



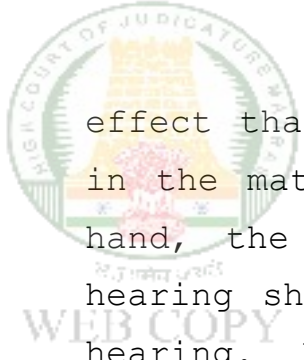
the date of their marriage. While so, the respondent herein filed a petition in H.M.O.P.No.381 of 2017 for dissolution of marriage before the Family Court, Madurai under Section 12 of the Hindu Marriage Act for declaration that the marriage between them is null and void. Hence, the present transfer civil miscellaneous petition has been filed praying for the relief stated supra.

3. Learned counsel for the petitioner submits that the respondent should have filed a petition for divorce either at Sivagangai where the marriage was performed between them or at Chennai, where, they resided together, whereas, the respondent deliberately filed the petition for dissolution of marriage at Madurai, which is native place of the respondent, where, his parents reside. He further submits that being a woman, she is required to travel 900 kms, up and down from Chennai to Madurai and Madurai to Chennai in a single day, as the petitioner is working in an I.T.Company, Chennai. Hence, she prays for appropriate orders.

4. Learned counsel for the respondent through his counter affidavit would aver among other things that, more particularly, at paragraph No.5 submits that since she deserted him at Madurai, the respondent filed the afore-said petition at Madurai and therefore, the learned Family Court, Madurai is having jurisdiction to try the same. He also denies the various allegations levelled against him which is stated in the affidavit as well as legal notice sent by the petitioner. To sum up, he wants to persuade the matter at the Family Court, Madurai.

5. Heard the learned counsel appearing for the respective parties and perused the material available on record.

6. It is apt to mention to quote an authoritative service.com service of the judgment reported in 2008 (9) SCC 353, Arti Rani @ Pinki Devi and another Vs. Dharmendra Comber Gupta, to the



effect that the convenience of the wife must be given preference in the matter of transfer petition. Admittedly, in the case on hand, the petitioner belongs to Sivagangai and each and every hearing she has to take assistance of her parents to attend the hearing. It is also stated that she is working in an I.T.Company, at Chennai. Since her parents live at Sivagangai, it will be convenient for her to stay with her parents and also attend the Court hearing. However, if the case is prosecuted at Madurai, it would be difficult for her to follow up the case. Further, no prejudice would be caused to the respondent if the case is transferred to Sub-Court, Sivagangai. Thus, this Court passes the following order:-

(i) The Family Court, Madurai is directed to transfer all the papers relating to H.M.O.P.No.381 of 2017 to the Sub-Court, Sivagangai, within a period of two weeks from the date of receipt of a copy of this order.

(ii) On receipt of the same, the Sub-Court, Sivagangai is directed to dispose of the case as expeditiously as possible, preferably within a period of six months, thereafter.

No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Judge,
Family Court,
Madurai.

2.The Sub-Court,
Sivagangai.

+1cc to M/S.S.SRINIVASA RAGHAVAN, Advocate SR.No.89024.

Order made in
TR.C.M.P (MD) No. 332 of 2017
21.11.2017