



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.BASKARAN

Tr.CMP.(MD).No.379 of 2017
and
C.M.P.(MD).No.7804 of 2017

Mariyammal

... Petitioner

vs.

A.Balasubramanian

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw H.M.O.P.No.211 of 2017 on the file of the Sub-Court, Thiruchendur, Tuticorin District and transfer the same to the file of Sub Court, Ambasamuthiram, Tirunelveli District.

For Petitioner : Ms.A.Banumathy

For Respondent : Mr.T.Selvan

ORDER

The petitioner/wife has come forward with this petition seeking transfer of H.M.O.P.No.211 of 2017 from the file of the Sub-Court, Thiruchendur, Tuticorin District and transfer the same to the file of the Sub Court, Ambasamuthiram, Tirunelveli District.

2.The petitioner states that she got married with the respondent on 04.02.2011 and she lived in the matrimonial home happily. Subsequently, due to the misunderstanding between them, the petitioner was attacked by the respondent family and hence, she preferred a police complaint before the All Women Police Station, Srivaikundam on 20.06.2016 and a case was registered in Crime No.360 of 2016. Thereafter, due to harassment, the petitioner filed D.V.No.6 of 2016 and the same is pending before the Judicial Magistrate, Srivaikundam. Then, the respondent filed H.M.O.P.No.292 of 2016 for restitution of Conjugal rights before the Sub Court, Tuticorin and the same was transferred to the newly established Sub Court at Thiruchendur and renumbered as H.M.O.P.No.211 of 2017. The petitioner then filed H.M.O.P.No.66 of 2017 before the Sub Court, Ambasamuthiram, Tirunelveli District seeking divorce and the same is pending. It is further stated that she is depending on her parents, she has no income on her own and it is difficult for her to travel to Thiruchendur which is nearly 100 km away. Hence she seeks transfer of H.M.O.P as stated above.



3.The learned counsel for the respondent opposed the petition stating that if H.M.O.P.No.211 of 2017 is transferred to Ambasamuthiram, it will give hardship to the respondent, as distance between Tiruchendur and Ambasamuthiram is nearly 100 kilo metres. The respondent also pointed out other proceedings in D.V.No.6 of 2016 pending at Srivaikundam and seeks for dismissal of the petition.

4.However, considering the reasons stated by the petitioner and the fact that H.M.O.P.No.66 of 2017, filed by the petitioner seeking divorce is pending before the Sub Court, Ambasamuthiram it would be appropriate that both H.M.O.Ps to be tried by the same Court, in order to avoid any conflicted decision. The respondent is also not prejudiced by such course of action. In such circumstances, this Court inclined to entertain the petition.

5.Accordingly, this Transfer Civil Miscellaneous petition is allowed. Consequently, H.M.O.P.No.211 of 2017 on the file of the Sub-Court, Thiruchendur, Tuticorin District is transferred to the file of Sub Court, Ambasamuthiram, Tirunelveli District. The Sub Court, Ambasamuthiram is directed to dispose of both H.M.O.Ps within four months from the date of receipt of a copy of this order after receiving records from Sub-Court, Tiruchendur. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Sub-Court, Thiruchendur, Tuticorin District.

2.The Sub Court, Ambasamuthiram, Tirunelveli District.

+1cc to M/S.T.Selvan, Advocate SR.No. 83747

+1cc to M/S.A.Banumathy, Advocate SR.No. 83773

Tr.CMP. (MD) .No.379 of 2017
25.10.2017

PSD

JM/SV MMS/SAR 2/20.11.2017/2P/5C