



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.07.2017**

Coram:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
Tr.C.M.P. (MD) .No.99 of 2017
and
C.M.P. (MD) No.2429 of 2017**

R.Maheswari

.. Petitioner/Respondent

Vs.

S.Chandramohan

.. Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the case in H.M.O.P.No.66 of 2017 from the file of Family Court, Trichy and transfer the same to the file of Principal Sub-Court, Tenkasi, Tirunelveli District for disposal of the same on merits and in accordance with law.

For Petitioner : Mr.M.Sankar

For Respondent : Mr.K.M.Karunakaran

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.66 of 2017 from the file of Family Court, Trichy to the file of Principal Sub-Court, Tenkasi, Tirunelveli District.

2.The marriage between the petitioner and the respondent was solemnized on 22.02.2015 at Maruthamalai Murugan Temple at Coimbatore, as per Hindu Rites and Customs. After marriage, the petitioner was residing with her husband at Kathar, where he was working and her husband made harassment and the petitioner returned to India for delivery and on 03.08.2015, she gave birth to a male child. As the respondent has tortured the petitioner, the petitioner stayed along with her maternal uncle with her 1 ½ year old son. The respondent has never made any attempt for reunion. The respondent herein filed H.M.O.P.No.66 of 2017 Section 13(1) (i-a) of Hindu Marriages Act before the Family Court, Trichy. The petitioner received summons from the said Court on 21.02.2017 and the said case is adjourned to 20.03.2017 for appearance of the petitioner and the petitioner is not able to conduct the case at Trichy and she seeks transfer of case from the file of the Family Court, Trichy to the file of the Principal Sub-Court, Tenkasi, Tirunelveli District.

3. The learned counsel for the respondent would submit that the petitioner did not appear before the Family court and



therefore, an ex-parte decree has been passed and the petitioner has not filed any petition to set aside the ex-parte decree.

4. Heard Mr.M.Sankar, learned counsel appearing for the petitioner and Mr.K.M.Karunakaran, learned counsel appearing for the respondent.

5. The learned counsel for the petitioner would submit that the petitioner has filed a petition to set aside the ex-parte decree and the same has not been entertained by the Court. Per contra, the learned counsel for the respondent would submit that no petition to set aside the ex-parte decree has been filed.

6. Considering the fact that ex-parte decree has been passed in H.M.O.P.No.66 of 2017, the petitioner has to file a petition to set aside the same and if the same is filed, the lower court shall consider the same on merits and in accordance with law.

7. With the above observation, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected C.M.P.(MD) No.2429 of 2017 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sub Judge, Tenkasi,
Tirunelveli District.

2.The Family Judge, Trichy.

+1cc to Mr.K.M.Karunakaran, Advocate Sr.No.65786

+1cc to Mr.M.Sankar, Advocate Sr.No.65860

CM

VB/SV/AMM/SAR1/01/08/2017/2P/5C

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and
C.M.P. (MD) No.2429 of 2017
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