



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.574 of 2016

Kodi

... Petitioner

Vs.

Malarvizhi

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in H.M.O.P.No.73 of 2014 on the file of the II Additional Subordinate Court, Madurai and transfer the same to the Family Court, Madurai, or any other Court having competent jurisdiction at Madurai.

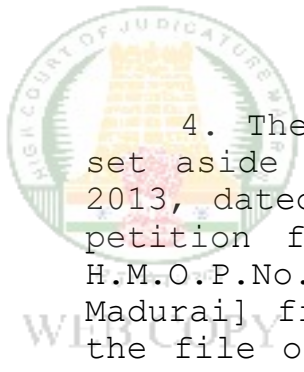
For Petitioner : Mr.R.Devaraj
For Respondent : Mr.B.Chandramohan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner/husband to withdraw the petition in H.M.O.P.No.73 of 2014 on the file of the II Additional Subordinate Court, Madurai, filed by the respondent/wife and transfer the same to the Family Court, Madurai, or any other Court having competent jurisdiction at Madurai.

2. The petitioner is the husband and the respondent is the wife and their marriage has been solemnized on 12.07.1992 and due to misunderstanding, both of them have initiated a number of proceedings.

3. In order to decide the issue involved in this petition, it is not necessary to refer to all the proceedings in detail, however, it is relevant to refer to the petition in Tr.C.M.P(MD)No.391 of 2013 filed by the respondent/wife for transferring H.M.O.P.No.374 of 2005 filed by the petitioner/husband from the file of the Family Court, Madurai and transfer the same to any other competent Court at Madurai. The petitioner/husband did not oppose the said petition and hence, this Court, by order dated 06.12.2013, ordered the petition in Tr.C.M.P(MD)No.391 of 2013 and transferred H.M.O.P.No.374 of 2005 to the file of the II Additional Sub Court, Madurai. Against the same, the respondent/wife filed Civil Appeal No.21 of 2015 [Arising out of S.L.P(C)No.7960 of 2014] before the Honourable Supreme Court.



4. The Honourable Supreme Court, by judgment dated 05.01.2015, set aside the order passed by this Court in Tr.C.M.P(MD)No.391 of 2013, dated 06.12.2013 and directed the parties to file the present petition for transferring H.M.O.P.No.374 of 2005 [re-numbered as H.M.O.P.No.73 of 2014 on the file of the II Additional Sub Court, Madurai] from the file of the II Additional Sub Court, Madurai, to the file of the Family Court, Madurai. In these circumstances, the present petition has been filed by the petitioner/husband.

5. The learned Counsel for the petitioner/husband has brought to the notice of this Court about various proceedings initiated by the parties and also the fact that Tr.O.P.No.50 of 2016 on the file of the District Court, Madurai, filed by the respondent/wife to withdraw H.M.O.P.No.185 of 2005 from the file of the II Additional Sub Court, Madurai [Thirumangalam Camp] to the file of the II Additional Sub Court, Madurai, was dismissed for default.

6. Whereas the learned Counsel for the respondent/wife submitted that only because of the biased attitude of the Presiding Officer of the Family Court, Madurai, this Court, by order dated 06.12.2013 transferred the H.M.O.P.No.374 of 2005 pending on the file of the Family Court, Madurai, to the file of the II Additional Sub Court, Madurai and if the matter is once again transferred to the file of the Family Court, Madurai, the respondent/wife will not be in a position to appear before the Family Court, Madurai and get justice.

7. Heard the learned Counsel for either side and perused the materials available on record.

8. In the light of the judgment of the Honourable Supreme Court passed in Civil Appeal No.21 of 2015 [Arising out of S.L.P(C)No.7960 of 2014] before the Honourable Supreme Court, dated 05.01.2015, I am inclined to transfer H.M.O.P.No.374 of 2005 [re-numbered as H.M.O.P.No.73 of 2014 on the file of the II Additional Sub Court, Madurai] from the file of the II Additional Sub Court, Madurai, to the file of the Family Court, Madurai. Taking into consideration the fact that H.M.O.P.No.374 of 2005 was filed in the year 2005 and subsequently, re-numbered as H.M.O.P.No.73 of 2014 and that a number of proceedings were initiated by both the parties, the Family Court, Madurai, is directed to dispose of the same as expeditiously as possible, in any event, not later than 31.07.2017.

9. Accordingly, this Transfer Civil Miscellaneous Petition is ordered as above. No costs.

Sd/-

Assistant Registrar (P&A)

/True Copy/



To

- 1.The II Additional Subordinate Judge, Madurai.
- 2.The Judge, Family Court, Madurai.

+ 1 CC TO Mr.R.DEVARAJ, ADVOCATE IN SR No. 15885
+ 1 CC TO Mr.B.CHANDRAMOHAN, ADVOCATE IN SR No. 16388

RSB

TE/JC/SAR-III : 04/04/2017 : 3P/5C

Tr.C.M.P (MD) No.574 of 2016
20.03.2017