



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P (MD) .No.25 of 2018
and
C.M.P (MD) No.634 of 2018

R.Kalyana Sundaram

... Petitioner/Respondent

Vs.

K.Aruna

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case in H.M.O.P.No.59 of 2017 on the file of the Subordinate Court, Valliyur, Tirunelveli District and transfer the same to the Family Court, Madurai.

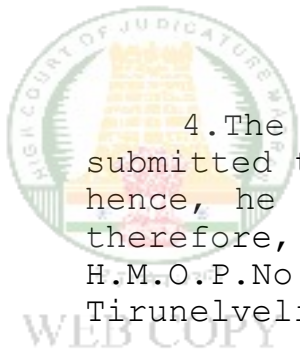
For Petitioner : Mr.S.Moorthy
For Respondent : Mr.R.Pon Karthikeyan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.59 of 2017 on the file of the Subordinate Court, Valliyur, Tirunelveli District to the Family Court, Madurai.

2.The learned counsel appearing for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 12.10.2005 at Madurai. After commencement of marriage, the respondent has not shown any interest to live with the petitioner and his family members as joint family and therefore, the petitioner changed their matrimonial home from Madurai to Nanguneri, Tirunelveli District. According to the petitioner, as the respondent has not changed the manner of adamant, the petitioner pushed into vexation upon the marriage life. Though many local panchayat were held, but there was no amicable settlement arrived at. The petitioner tolerated all these things for the welfare of the children.

3.The learned counsel appearing for the petitioner submitted that the petitioner filed a petition in H.M.O.P.No.135 of 2017 before the Family Court, Madurai seeking the relief of divorce from the respondent under Section 13(1), (ia) of Hindu Marriage Act. In the mean time, the respondent filed a petition in H.M.O.P.No.59 of 2017 before the Subordinate Judge, Valliyur, Tirunelveli District seeking the relief of restitution of conjugal rights.



4.The learned counsel appearing for the petitioner also submitted that the petitioner is taking care of his two children and hence, he is unable to travel 250 kms from Madurai to Valliyur and therefore, he sought for transferring the above case in H.M.O.P.No.59 of 2017 from the Subordinate Judge, Valliyur, Tirunelveli District.

5.At this juncture, the learned counsel appearing on either side would submit that in the interest of justice, both the cases, which are pending before the Family Court, Madurai as well as the Subordinate Judge, Valliyur, Tirunelveli District, may be transfer to Family Court, Tirunelveli District.

6.I am satisfied with the reasons stated in the affidavit filed in support of this petition and also considered the submissions made on either side. Therefore, I am inclined to allow the present petition.

7.Accordingly, this petition is allowed with the following directions:

- The Family Court, Madurai as well as the Subordinate Judge, Valliyur, Tirunelveli District are directed to transmit the entire records in H.M.O.P.No.135 of 2017 and in H.M.O.P.No.59 of 2017 to the file of the Family Court, Tirunelveli within a period of two weeks from the date of receipt of copy of this order.
- The learned Family Court, Tirunelveli, after obtaining the records on transfer, is directed to try H.M.O.P.No.135 of 2017 along with H.M.O.P.No.59 of 2017 and dispose of the same, within a period of six months thereafter, in accordance with law.

8.No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Subordinate Court, Valliyur, Tirunelveli District.
- 2.The Family Court, Madurai.
- 3.The Family Court, Tirunelveli.

+1cc to M/S.S.Moorthy, Advocate SR.No. 54177

+1cc to M/S.R.Pon Karthikeyan, Advocate SR.No. 53957

Tr.C.M.P(MD).No.25 of 2018