



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:11.04.2018

CORAM

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The Hon'ble Mr.Justice M.V.MURALIDARAN

Tr.C.M.P (MD) No. 40 of 2018

and

C.M.P.No.987 of 2018

B.Soundara Subha

.... Petitioner

vs

S.Kannan

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24(b) (ii) of Code of Civil Procedure to withdraw the proceedings in HMOP No. 102 of 2017, now pending on the file of the Sub Ordinate Judge,Tiruchengode and transfer the same to Sub Ordinate Judge,Thirumangalam to be heard along with HMOP 594 of 2017.

For Petitioner

:Mrs. P. Jessi Jeeva Priya

For Respondent

:No appearance

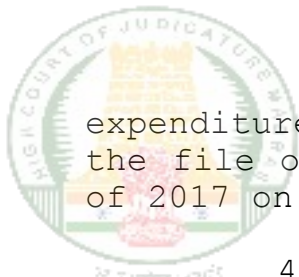
ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw the proceedings in HMOP No. 102 of 2017, now pending on the file of the Sub ordinate Judge,Tiruchengode and transfer the same to the file of the Sub ordinate Judge,Thirumangalam to be heard along with HMOP No. 594 of 2017.

2. The respondent/husband herein has filed a petition in HMOP No.102 of 2017 on the file of the Sub ordinate Judge, Thiruchengode for divorce, whereas the petitioner/wife has filed HMOP No.594 of 2017 before the Sub Court, Thirumangalam for Restitution of Conjugal Rights.

3. The case of the petitioner is that her marriage with the respondent was solemnized on 23.06.2016 and she was living happily with her husband in the matrimonial home. When she went to her house for aadi function, her husband /respondent has promised her to take her back to the matrimonial home. Thereafter, he did not turn up. Hence the petitioner has filed HMOP No. 594 of 2017 before the learned Sub ordinate Judge, Thirumangalam under Section 9 of the Hindu Marriages Act,1995 for Restitution of Conjugal Rights.

3. It is submitted by the petitioner / wife that she is residing with her aged parents at Thirumangam and on all hearings, she used to attend the court proceedings in HMOP No.102 of 2017 pending before the Sub Court, Thiruchengode along with her parents. Since she is not in a position to meet out the travelling



expenditure, she seeks to transfer of HMOP No.102 of 2017 pending on the file of the Thiruchengode to be heard along with HMOP No. 594 of 2017 on the file of the Sub Ordinate Judge, Thirumangalam.

4. Though notice was served on the respondent and his name also printed in the cause list, there is no representation for the respondent.

5. Heard Mr.P.Jessi Jeeva Priya learned counsel appearing for the petitioner. There is no representation for the respondent.

6. Admittedly the petitioner/ wife is residing at Thirumangalam along with her aged parents and therefore, has filed HMOP No. 594 of 2017 before the learned Sub ordinate Judge, Thirumangalam. However, she had to attend all the hearings in HMOP No. 102 of 2017 on the file of the sub ordinate Judge, Thiruchengode filed by her husband, along with her parents by spending huge amount towards travelling allowances.

7. I am satisfied with the reasons stated in the affidavit filed in support of this petition. The Hon'ble Supreme Court in the judgment reported in 2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta), has held that convenience of woman is to be taken into consideration first at the time of considering transfer applications. Hence, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Subordinate Judge, Thiruchengode, is directed to transmit the entire records in H.M.O.P.No.102 of 2017 to the file of the Subordinate Court, Thirumangalam, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Thirumangalam, after obtaining the records on transfer, is directed to dispose both the petitions within period of four months from the date of receipt of papers from the learned Subordinate Judge, Thiruchengode.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSI)

/True Copy/

Sub Assistant Registrar

Copy to:

1. The Subordinate Judge, Thiruchengode.

2. The Subordinate Judge, Thirumangalam.

+lcc to M/s.P.Jessi Jeeva Priya, Advocate, SR.No.60744

aav

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