



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2018

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

TR. C.M.P(MD).No. 182 of 2018
and C.M.P. (MD) No.4342 of 2018

Petchiammal ... Petitioner

Vs.

Arumugam ... Respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw and transfer the petition in H.M.O.P. No.82 of 2017 on the file of the learned Subordinate Judge, Tiruchendur and to be tried along with H.M.O.P. No.6 of 2018 on the file of the learned Subordinate Judge, Tirunelveli.

For Petitioner : Mr.P.M. Vishnu Varthanan
For Respondent : Mr. K. Nalla Muthu

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer the petition in H.M.O.P. No.82 of 2017 on the file of the learned Subordinate Judge, Tiruchendur and to be tried along with H.M.O.P. No.6 of 2018 on the file of the learned Subordinate Judge, Tirunelveli.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 08.06.2014 at Vallanadu Sithar Sathu Chidambara Swamigal Marriage Hall. The respondent herein has filed H.M.O.P. No.82 of 2017 before the learned Subordinate Judge, Tiruchendur seeking for Divorce. The allegation against the petitioner herein is that the petitioner is in adultery with one Murugan and on the sole ground the respondent sought for dissolution of marriage dated 08.06.2014 is totally false. The respondent did not ready to accept the child born on 26.09.2017. Therefore, the petitioner has filed a petition in H.M.O.P. No.6 of 2018 before the learned Sub-Judge, Tirunelveli for Restitution of Conjugal Right and also filed a petition in D.V.O.P. No.4 of 2018 before the learned Judicial Magistrate No.V, Tirunelveli for Protection.

3. In the meantime, the petitioner has received a summons in the H.M.O.P. No.82 of 2017 and entered appearance through her counsel before the learned Subordinate Judge, Tiruchendur. He would



further contend that it is very difficult for the petitioner to travel from Tirunelveli to Tiruchendur for attending each and every hearing of the case. Therefore, she has come forward with the present petition for transfer.

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4. Heard the learned Counsel appearing for the petitioner as well as the respondent and perused the materials available on record.

5. Being satisfied with the reasons stated in the affidavit filed in support of this petition, as well as considering the well settled law that convenience of woman has to be taken into consideration at the time of considering transfer applications as held by the Hon'ble Supreme Court in the judgment reported in 2008 (9)SCC 353 (*Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta*), I am inclined to allow the present petition.

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

(i) *The learned Subordinate Judge, Tiruchendur, is directed to transmit the entire records in H.M.O.P. No.82 of 2017 to the file of the Sub-Court, Tirunelveli within a period of two weeks from the date of receipt of copy of this order.*

(ii) *The Subordinate Judge, Tirunelveli after obtaining the records on transfer, is directed to try along with HMOP No.6 of 2018 and dispose of both the cases, within a period of three months thereafter, in accordance with law.*

No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-III)

To

1. The Subordinate Judge,
Tiruchendur.

2. The Subordinate Judge,
Tirunelveli.

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