



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P. (MD) No.211 of 2017
and
C.M.P. (MD) No.4816 of 2017

Madhubala

... Petitioner/Respondent

-vs-

Saravanakumar

... Respondent/ Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case in H.M.O.P.No.81 of 2016 filed by the respondent herein before the Subordinate Court, Ambasamuthiram to Subordinate Court, Tuticorin.

For Petitioner : Mr.S.Senthil Sankara Natha Kumar
For Respondent : No representation, called absent-
set exparte

O R D E R

The petitioner's arguments are heard.

2. Despite the matter being called twice, no representation for the respondent. The respondent called, absent and set exparte.

3. The petitioner is the wife. The respondent is the husband. All is not well qua the marital life of the parties. It is noted that the respondent has levied H.M.O.P.No.81 of 2016 for restitution of conjugal rights and the same is pending on the file of the Subordinate Court, Ambasamuthiram. The petitioner/wife has levied H.M.O.P.No.109 of 2017 for divorce against the respondent and the same is pending on the file of the Subordinate Court, Tuticorin. Seeking transfer of the respondent's proceedings from Ambasamuthiram to Tuticorin Court, the present Transfer Civil Miscellaneous Petition has been filed by the petitioner/wife on the footing that the distance between Ambasamuthiram and Tuticorin is more than 100 km and she is finding it inconvenient and experiencing hardship in attending the proceeding at Ambasamuthiram and furthermore, it is also stated that she has to look after her young child and



therefore, prayed for the transfer as requested.

4. Furthermore, it is also stated that as two proceedings concerning the marital issues between the parties are pending in different Forums, the determination of the two proceedings by one and the same Court would be beneficial to both parties and the way of the same, no prejudice would be caused to the respondent.

5. From the materials placed on record, it is seen that two proceedings are pending concerning the marital issues between the parties in different Forums. In such view of the matter, in my considered opinion, the consolidation of two proceedings and the determination of the same by one and the same Court would be beneficial to both parties and the way of some, conflict of decisions could be avoided and furthermore, the parties would also be required to adduce common evidence in both matters. Thus it is noted that the cause of justice would be advanced if both proceedings are tried and determined by one and the same Court.

6. The petitioner has put forth certain inconvenience and hardship in attending the proceeding at Ambasamuthiram Court. The respondent has not controverted the same by contesting the petitioner's case and inasmuch as the respondent has not shown interest to contest the matter, accordingly, when the matter is called, on being absent, he has been set exparte. It is thus noted that inasmuch as the cause projected by the petitioner for seeking transfer are genuine and bonafide, the respondent has also not shown any interest to challenge the same by putting forth any objection. It is thus noted that no serious prejudice would be caused to the respondent if the matters instituted by the respective parties are tried and determined by the Court at Tuticorin.

7. It is thus noted that the petitioner has given sufficient cause for acceding to the transfer request projected by her. In conclusion, H.M.O.P.No.81 of 2016 is withdrawn from the file of the Subordinate Court, Ambasamuthiram and transferred to the file of the Subordinate Court, Tuticorin for joint trial along with H.M.O.P.No.109 of 2017 as per law. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)



2. The Subordinate Judge, Tuticorin.

+1cc to Mr.S.Senthil Sankara Natha Kumar Advocate in SR.No.95277

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