



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.09.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

TR CMP(MD)No.327 of 2017
and
CMP(MD)No.6931 of 2017

R.Arthy

... Petitioner

Vs.

M.Rajasekar

... Respondent

Prayer: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the HMOP No.124 of 2016 on the file of the Sub Court, Dindigul and transfer the same to the Sub Court, Periyakulam to be tried along with HMOP No.63 of 2016 on the file of the Sub Court, Periyakulam, Theni District.

For Petitioner

: Mr.A.Uthayakumar

For Respondent

: Mr.H.Lakshmi Shankar

ORDER

The petitioner got married to the respondent on 29.05.2013. The marital relationships between the petitioner and the respondent have come under strain. The petitioner filed HMOP No.63 of 2016 before the Sub Court, Periyakulam for restitution of conjugal rights. It has been dismissed for default. To restore the same, she filed an application and it is still pending. In the meanwhile, the respondent had filed HMOP No.124 of 2016 before the Sub Court, Dindigul for divorce. It was decreed exparte on 17.07.2017. The petitioner has since been filed an application for setting aside the same. It is still pending.

2.This Court is of the view that in matters such as this there must be an adjudication on merits. Therefore, this Court is of the view that the learned Sub Judge, Dindigul must condone the delay occasioned in filing the set aside petition and also set aside the exparte judgment and decree made in HMOP No.124 of 2016. This shall be done within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the said HMOP No.124 of 2016 shall stand transferred to the file of the Sub Court, Periyakulam, Theni District.



3.The learned Sub Judge, Periyakulam is also directed to restore HMOP No.63 of 2016. Both the HMOPs shall be jointly tried together by the Sub Judge, Periyakulam and disposed within a period of six months from the date of receipt of a copy of this order, thereafter.

4.This transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Sub Judge, Dindigul.

2.The Sub Judge, Periyakulam.

+1CC to Mr.A.Uthayakumar, Advocate, SR.No.84245

+1CC to Mr.H.Lakshmi Shankar, Advocate, SR.No.84408

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ES/SKN/RSK/SAR 4/23.10.2018/2P/5C