



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.06.2018

Pronounced on : 31.08.2018

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD) No.473, 474 of 2017 and

Tr.C.M.P. (MD) No.134 of 2018 and

CMP (MD) Nos.2899/2018, 9443 and 9444 of 2017 and

CMP (MD) No.2874 of 2018

Dr.A.Ramesh ..Petitioner in Tr.CMP (MD) No.473 & 474 2017 &
..Respondent in Tr.CMP (MD) No.134/2018

vs.

Dr.N.Ramaswathika ..Respondent in Tr.CMP (MD) No.473 & 474/17
..Petitioner in Tr.CMP (MD) No.134/2018

Prayer in Tr.CMP (MD) No.473 of 2017: Petition filed under Section 24 of C.P.C. to withdraw the H.M.O.P.No.144 of 2017 on the file of Sub Court, Karur, and to transfer the same to the file of Family Court, Trichy.

Prayer in Tr.CMP (MD) No.474 of 2017: Petition filed under Section 24 of C.P.C. to withdraw the H.M.O.P.No.229 of 2017 on the file of Family Court, Tirunelveli, and to transfer the same to the file of Family Court, Trichy.

Prayer in Tr.CMP (MD) No.134 of 2018: Petition filed under Section 24 of C.P.C. to withdraw the divorce petition filed by the respondent in H.M.O.P.No.136 of 2018 on the file of Family Court, Karur, and transfer the same to the file of Family Court, Tirunelveli for being joint tried along with the petition for restitution of conjugal rights in HMOP.No.229 of 2017 pending therein.

For Petitioner : Mr.K.Saravanan
(in Tr.CMP (MD) Nos.473 & 474/2017 and
Respondent in Tr.CMP (MD) No.134/2018)

For Respondent : Mr.R.Krishnan
(in Tr.CMP (MD) Nos.473 & 474/2017 and
Petitioner in Tr.CMP (MD) No.134/2018)

**ORDER**

The petitioner in Transfer CMP(MD)No.473 of 2017 filed by the husband seeking transfer the HMOP.No.144 of 2017 pending on the file of the learned Sub-Court, Karur, to the Family Court, Trichy. The Transfer CMP(MD)No.474 of 2017 filed by the husband seeking transfer the HMOP.No.229 of 2017, pending on the file of the learned Family Court, Tirunelveli to the Family Court, Trichy, whereas the petitioner in Transfer CMP(MD)No.134 of 2018 filed by the wife seeking transfer the HMOP.No.136 of 2018, pending on the file of the learned Sub Court, Karur to the Family Court, Madurai for joint trial.

2.It is the case of the parties of these cases, who are the husband and wife, both of them were filed separate O.P. before the Sub Court, Karur in HMOP.Nos.144 and 229 of 2017 filed before the Family Court, Tirunelveli. The HMOP.No.144 of 2017 was filed by the petitioner before Sub Court, Karur against the respondent / wife for divorce. The HMOP.No.229 of 2017 was filed by the respondent/wife before the Family Court, Tirunelveli seeking for restitution of conjugal rights. The HMOP.No.144 of 2017 was filed by the husband for divorce before the Sub Court, Karur was transferred to Family Court, Karur and re-numbered as HMOP.No.136 of 2018.

3.It is the case of the husband is that though the O.P.s are pending before the Family Court, Karur as well as the Family Court, Tirunelveli, the father of the wife is the highly influenced person in the locality and whenever he went to the Family Court, Karur as well as the Family Court, Tirunelveli, there was a threat meted out by the husband from the father of the wife.

4.It is also the case of the husband is that the husband is the medical practitioner and working at Government Medical College Hospital, Trichy. Therefore, he could not able to attend both the Courts at Family Court, Karur as well as the Family Court, Trichy by travelling 152 kms up and down. Hence, the husband seeking to transfer both the O.P.s from the Family Court, Karur and Family Court, Tirunelveli to the Family Court, Trichy.

5.On the other hand, the wife who has filed the Transfer CMP (MD)No.134 of 2018 seeking to transfer the case in HMOP.No.136 of 2018 pending on the file of the Family Court, Karur filed by the husband for divorce seeking to transfer the HMOP.No.136 of 2018 from the file of the Family Court, Karur to the Family Court, Tirunelveli for joint trial along with the other HMOP.No.229 of 2018 filed by the wife for restitution of conjugal rights.

6.I heard Mr.K.Saravanan, learned counsel for the petitioner in Tr.CMP(MD)Nos.473 and 474 of 2017 and respondent in Tr.CMP(MD) No.134 of 2018 and Mr.R.Krishnan, learned counsel for the respondent in Tr.CMP(MD)Nos.473 and 474 of 2017 and petitioner in Tr.CMP(MD)



7. Admittedly both the husband and wife are doctors and they are practicing at Trichy as well as at Tirunelveli.

8. It is the case of the wife that for the appearance in the Court at Family Court, Karur, she should travel for more than 300 kms with one year child which is not possible for her to attend the Court either at Karur or at Trichy. Therefore, she filed the Transfer CMP(MD) No.134 of 2018 seeking to transfer the HMOP.No.136 of 2018 for divorce on the file of the Family Court, Karur to Family Court, Tirunelveli.

9. The learned counsel for the wife argued before this Court that the Hon'ble Supreme Court has considered that the matrimonial cases should be transferred only for the convenience of the wife, because she is a lady, she could not able to travel long distance for attending the case.

10. It is my absolute view in this case that both the husband and wife are doctors and the husband is practicing at Trichy whereas the wife is practicing at Tirunelveli. Apart from this, it is the case of the husband that there is a threat from the father of the wife whenever he attend the Court at Tirunelveli. Therefore, instead of transfer the case from the Tirunelveli, both the cases may be transfer to the middle place of both the parties. Whereas the learned counsel for the husband vehemently opposed for transferring the case to the middle place. But the learned counsel for the wife has prayed to transfer the case from the Family Court, Karur to the Family Court, Tirunelveli along with her O.P. filed for restitution of conjugal rights for joint trial.

11. Both the husband and wife are doctors and they are practicing independently as medical practitioner and they are not able to travel long distance for attending the Court, but in the interest of justice if both the cases are transferred to a middle place that is easy for both the parties i.e. husband and wife to attend the case without any difficult. Therefore, I am inclined to transfer both the cases from the file of Family Court, Karur and Family Court, Tirunelveli to the file of the Family Court, Madurai.

12. It is made clear that both the husband and wife were made allegations to each other, both of them seeking transfer from the other Court to their home town Court, but in the interest of justice, I am inclined to transfer both the O.P.s to the Family Court, Madurai which is the middle place to both the parties, in which they are able to attend the Court fearlessly.

13. In the result:

(a) all the Transfer Civil Miscellaneous Petition in Tr.CMP(MD) Nos.473 and 474 of 2017 and Tr.CMP(MD) No.134 of 2018 are disposed of;

<https://hcservices.ecourts.gov.in/hcservices/> the learned Family Court Judge, Tirunelveli is directed to transfer the HMOP.No.229 of 2017 to the file of the Family Court, Madurai and the learned



Family Court Judge, Karur is directed to transfer the HMOP.No.136 of 2018 from its file to the file of the Family Court, Madurai within a period of two weeks from the date of receipt of a copy of this order;

(c) on receipt of the entire papers in both the cases, the learned Family Court Judge, Madurai is directed to dispose of the same within a period of four months, on day to day basis without giving any adjournments;

(d) the petitioner/husband is directed to pay the travelling expenses to the respondent/wife for attending the Court whenever she appeared before the Family Court, Madurai;

(e) the appearance of the wife is dispensed with except the appearance directed by the Family Court, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Sub-Judge, Karur.

2.The Judge,Family Court, Tirunelveli.

3.The Judge,Family Court, Karur.

4.The Judge,Family Court, Madurai.

+1CC to Mr.K.Saravanan, Advocate, SR.No. 81927

Tr.C.M.P.(MD)No.473, 474 of 2017 and

Tr.C.M.P.(MD)No.134 of 2018 and

CMP(MD)Nos.2899/2018, 9443 and 9444 of 2017 and

CMP(MD)No.2874 of 2018

31.08.2018