



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Tr.C.M.P. (MD).No.345 of 2018
and
C.M.P. (MD).No.8474 of 2018

K.Mariamammal .. Petitioner/Respondent

Vs.

N.Murugaiah .. Respondent/Petitioner

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.57 of 2018 on the file of learned Sub Court, Tiruchendur and transfer the same to any Court at Tirunelveli, preferably the Family Court, Tirunelveli.

For Petitioner : Mr.I.Suthakaran
For Respondent : Mr.P.Ganapathi Subramanian

O R D E R

The petitioner got married to the respondent on 31.05.2012. The respondent has filed H.M.O.P.No.57 of 2018 on the file of the Subordinate Court, Tiruchendur seeking the relief of divorce. The petitioner is based in Tirunelveli District. The marriage took place in Tirunelveli. The parties lastly resided together at Tirunelveli. Therefore, prima facie it appears that the Sub Court, Tiruchendur, may not have territorial jurisdiction to entertain the H.M.O.P.

2. Hence, this Court transfers the same to the file of the Family Court, Tirunelveli.

3.The learned counsel appearing for the respondent submits that the respondent is serving in the Army, that too, at the border. He gets hardly 15 days of leave to come down to his native place. Therefore, appearance of the respondent before the Family Court, Tirunelveli, stands dispensed with. The respondent ofcourse shall have to appear through his counsel. The respondent will be called upon to appear in person to give evidence only during the leave period as sanctioned by his army authorities. H.M.O.P filed by the respondent will not suffer any dismissal for default because of his non appearance. This direction is issued taking into account the fact that the respondent herein is serving in the Indian Army.



4. In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected C.M.P. (MD) No. 8474 of 2018 is closed.

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/True Copy/

Sd/-

Assistant Registrar (RECORDS)

Sub Assistant Registrar (CS-III)

To

1. The Family Court, Tirunelveli.

2. The Sub Court, Tiruchendur.

- 1 CC TO Mr. P. GANAPATHI SUBRAMANIAN, ADVOCATE IN SR No. 89456.
- + 1 CC TO Mr. I. Suthakaran, ADVOCATE IN SR No. 88962.
-
- CM
- DS RSK SAR3 10 12 2018 2P 5C

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