

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

TR.CMP.NO.927 OF 2018
AND CMP NO.22972 OF 2018

P.Bharathi

... Petitioner

Vs.

Thirumal

... Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code to withdraw the case H.M.O.P.No.173/2018 on the file of the Principal Subordinate Judge, Tirupur and to transfer at Sub Court, Tiruttani, Tiruvallur District for the further hearing.

For Petitioner : Mr.D.Devendran

For Respondent : Mr.K.C.Karl Marx

O R D E R

The petitioner/wife filed this Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.173 of 2018 pending on the file of the Principal Subordinate Judge, Tirupur and transfer the same to Sub Court, Tiruttani, Tiruvallur District.

2. The petitioner is the wife. She filed maintenance case in M.C.No.8 of 2017 before the Judicial Magistrate, Tiruttani. Thereafter, the respondent / husband filed a petition for divorce in H.M.O.P.No.173 of 2018 before the Principal Subordinate Court, Tirupur. Now that the petitioner is before this Court seeking transfer of the petition filed by the husband on the grounds of convenience.

3. The learned counsel for the respondent would contend that the respondent purchased the property in the name of her wife and filed a suit for partition before the Principal Subordinate Court, Tirupur. Thereafter, he filed a petition for divorce also before the same Court viz., Principal Subordinate Court, Tirupur, where the petitioner can contest both the cases at Tirupur.

4. Heard the submissions made on either side.

5. Admittedly, the petitioner is a resident of Tiruttani. Further, in the divorce petition, the respondent / husband would state that the petitioner / wife is taking treatment for some ailments connected to cyst in the uterus as well as for test tube baby, at Chennai. If that is the case, the petitioner may not be in a position to travel such a long distance, when she is undergoing treatment for bearing a child. Therefore, considering the physical hardship caused to the petitioner, this Court is inclined to transfer the case to Tiruttani.

6. Accordingly, H.M.O.P.No.173 of 2018 filed by the husband, pending on the file of Principal Subordinate Court, Tirupur is withdrawn and transferred to Sub Court, Tiruttani. Since maintenance case is pending before the Judicial Magistrate, Tiruttani, a direction is issued to the learned District Judge, Tiruttani, to transfer M.C.No.8 of 2017 pending on the file of Judicial Magistrate, Tiruttani to the Sub Court, Tiruttani, to be tried along with H.M.O.P.No.173 of 2018. A direction is issued to the Sub Judge, Tiruttani, to renumber both the petitions, issue notice to both the parties and continue the proceedings from where it stands. A further direction is issued to dispose of both the petitions, as expeditiously as possible.

7. The Transfer Civil Miscellaneous Petition is disposed of accordingly. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

TK
To

1. The District Judge, Tiruttani.
2. The Judicial Magistrate, Tiruttani.
3. The Principal Subordinate Judge, Tiruppur.
4. The Subordinate Judge, Tiruttani.

+1 cc to Mr.D.Devendran, Advocate, S.R.No.15938

+1 cc to Mr.K.C.Karl Marx, Advocate, S.R.No.16004

TR.CMP.NO.927 OF 2018

GJ-II(CO)
SSM(19/03/2019).