



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD)No.272 of 2011

and

M.P(MD) No.1 of 2011

S.Jeyashree

... Petitioner

Vs.

P.Surya Prakash

... Respondent

PRAYER:- Petition filed under Section 24 of Civil Procedure Code, to withdraw and transfer the original petition in HMOP No.658 of 2011 on the file of the Family Court, Coimbatore and to transfer the same to the file of the Sub Court, Tirunelveli to be tried along with HMOP No.140 of 2011 pending on the file of Sub Court, Tirunelveli.

For Petitioner : Mr.J.Ashok

For Respondent : No appearance

ORDER

The above Transfer Civil Miscellaneous Petition has been filed at the bequest of the wife seeking to withdraw the original petition in HMOP No.658 of 2011 pending on the file of the Family Court, Coimbatore and to transfer the same to the file of the Sub Court, Tirunelveli to be tried along with HMOP No.140 of 2011.

2.Though the notice has been served on the respondent and his name has been printed, none appeared on behalf of the respondent. Considering the fact that the service has been completed, this Court has proceeded to hear the submission of the learned counsel for the petitioner.

3.The facts in brief which are necessary to dispose of the above transfer civil revision petition are as follows:-

(i) The petitioner would submit that her marriage with the respondent was solemnized on 18.01.2010 at Tirunelveli as per the Hindu Rites and Customs and that during her marriage, she had been provided with gold as well as cash and other household articles. <https://hnp.cscs.com.in/tc-service/> additional dowry was demanded by the respondent and his family.



(ii) The petitioner would further submit that after the marriage, she had gone along with the respondent to Indonesia on 05.02.2010, where she had been subjected to torture and humiliation. Ultimately, she returned to India with the help of her parents. The petitioner would further submit that she had also instituted the criminal complaint against the respondent on the ground of dowry and she had then moved H.M.O.P.No.140 of 2011 on the file of the Sub Court, Tirunelveli under Section 13(1)(1a) of the Hindu Marriage Act. Meanwhile, it appears that the husband was also moved the petition for restitution of conjugal rights in H.M.O.P.No.658 of 2011 on the file of the Family Court, Coimbatore.

(iii) The petitioner would further submit that as on date she is living with her parents totally under their care and custody and she is also unemployed. Therefore, since H.M.O.P.No.658 of 2011 is before the Family Court, Coimbatore, she has to appear for every hearing and it is causing lot of financial as well as physical hardship for her. Therefore, she seeks to transfer the same to the file of the Sub Court, Tirunelveli, to be tried along with H.M.O.P.No.140 of 2011 filed by her, for divorce.

4. Heard the learned counsel for the petitioner and perused the papers.

5. As submitted by the petitioner, the petition for restitution of conjugal rights filed by the respondent/husband is pending before the Family Court, Coimbatore, where the presence of the petitioner at every hearing is necessary. Whereas, H.M.O.P.No.140 of 2011 filed by the wife for divorce, is pending before the Sub Court, Tirunelveli, which does not require the presence of the respondent in every incidence. Further, the husband has also not been maintained the petitioner/wife.

6. In the said circumstances, this Court has also taken note of the fact that the petitioner is residing at Tirunelveli. Therefore, this Court deems it fit to order the transfer. Consequently, the Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P(MD) No.658 of 2011 is ordered to be withdrawn and transferred from the file of Family Court, Coimbatore to the file of Sub Court, Tirunelveli. The learned Sub Judge, Tirunelveli is directed to tag H.M.O.P(MD) No.658 of 2011 along with H.M.O.P(MD) No.140 of 2011 which is pending on his file, conduct joint trial and dispose of the same on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/



To

1.The Family Court,
Coimbatore.

2.The Subordinate Judge,
Tirunelveli.

+1 CC to M/s.J. ASHOK, Advocate (SR-85188[F] dated 05/09/2019)

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JM/18.09.2019/3P/4C