



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)Nos.146 and 56 of 2019
and
CMP(MD)No.3167 and 1432 of 2019

TR.CMP(MD)No.146 of 2019

Mr.S.Karthikeyan

... Petitioner

vs.

Mrs.Ieswariya

... Respondent

Petition filed under Section 24 read with Section 151 of the Civil Procedure Code, to withdraw the case on the file of the learned Family Court, Madurai, in H.M.O.P.No.1153 of 2018 and transfer the same to competent Court at Chennai.

For Petitioner : Mr.S.Venugopal Raj
For Respondent : Mr.K.Muraleedharan

TR.CMP(MD)No.56 of 2019

Ieswariya

... Petitioner

vs.

Karthikeyan

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw O.P.No.240/2019 on the file of the learned III Family Court, Chennai, filed by the respondent and to transfer the case to District Family Court, Madurai to try with the H.M.O.P.No.1153/2018 on the file of the Family Court, Madurai filed by the petitioner.

For Petitioner : Mr.K.Muraleedharan
For Respondent : Mr.S.Venugopal Raj

COMMON ORDER

TR.CMP.146/19 has been filed for a direction to transfer H.M.O.P.No.1153/2018 from the Family Court, Madurai, to the competent Court at Chennai.

<https://hcservices.ecourts.gov.in/hcservices/> TR.CMP.56/19 has been filed for a direction to transfer O.P.No.240/2019 from the IIIrd Family Court, Chennai, to the Family Court, Madurai, to try along with the H.M.O.P.No.1153/2018.



2.The facts of the case are that the parties are husband and wife and their marriage was solemnized on 14.12.2017 as per the Hindu rites and customs. Due to misunderstanding, there was a strained relationship between the parties. While so, the wife filed H.M.O.P.No.1153/2018 on the file of the Family Court, Madurai, for divorce and the husband filed H.M.O.P.No.240/2019 before the IIIrd Family Court, Chennai, for restitution of conjugal rights and they filed their respective transfer petition seeking transfer of the case filed by other party from Madurai to Chennai vice versa.

3.Learned counsel for the petitioner/husband in TR.CMP.No.146/2019 would contend that the petitioner herein is working as a Deputy Manager in Ashok Leyland at Chennai and his presence in the office is required on all working days. Further, the petitioner is residing with his widowed mother who is a senior citizen and she needs assistance of the petitioner to take care of her health and therefore, it is difficult for the petitioner to travel from Chennai to Madurai to attend the hearing of H.M.O.P.No.1153/2018 filed by the respondent at Madurai. Thus, he prays for allowing TR.CMP.No.146/2019.

4.Learned counsel for the petitioner/wife in TR.CMP.No.56/2019 would contend that the petitioner is residing with her parents at Madurai and she is depending on her parents for her livelihood and therefore, it is difficult for her to travel from Madurai to Chennai to attend the hearing of H.M.O.P.No.240/2019 filed by the respondent at Chennai. Thus, he prays for allowing TR.CMP.No.56/2019.

5.The Hon'ble Supreme Court in the judgment reported in **2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, has held that convenience of woman is to be taken into consideration first while considering transfer application.

6.In view of the above decision and being satisfied with the reasons stated in the affidavit filed in TR.CMP.No.56/2019 by the wife, when this Court inclined to allow TR.CMP.No.56/2019, learned counsel for the petitioner/husband submitted that it will be convenient for both the parties if both the cases are transferred to the Sub Court, Madurai, for which, learned counsel for the petitioner/wife has no objection.

7.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8.Under Section 24 of the Civil Procedure Code, the High Court has got ample powers to transfer the proceedings from the Family Court to any Subordinate Court though it lacks territorial jurisdiction which has been dealt with by this Court in the judgment reported in **(2006) 4 MLJ 45, Usha @ Ramalakshmi and another vs. P. Shanmugam.**



9. Relying on the above judgment, both the Transfer Civil Miscellaneous Petitions are disposed of with the following directions:-

i) The learned Judge, Family Court, Chennai, and the learned Judge, IIIrd Family Court, Madurai, are directed to transmit the entire records in H.M.O.P.No.240/2019 and H.M.O.P.No.1153 of 2018 respectively, to the file of the Sub Court, Madurai, within a period of two weeks from the date of receipt of copy of this order and accord

ii) On receipt of the case papers in H.M.O.P.No.240/2019 and H.M.O.P.No.1153 of 2018, the learned Judge, Sub Court, Madurai, is directed to hold a joint trial of both the cases and dispose of the same on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of records.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

1) The Judge,
Sub Court, Madurai.

2) The Judge,
IIIrd Family Court, Chennai.

3) The Judge,
Family Court, Madurai.

1 CC to M/s.K.MURALEEDHARAN, Advocate (SR-61437[F]
dated 22/04/2019)

TR.CMP(MD) Nos.146
and 56 of 2019

DS/ /SAR- (30.04.2019) 3P 5C