



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2019

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

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Tr.C.M.P. (MD) Nos.174 and 177 of 2019
and
C.M.P. (MD) Nos.4014 and 4046 of 2019

Tr.C.M.P. (MD) Nos.174 of 2019

R.Prabhadevi : Petitioner/Petitioner

.. Vs ..

S.Muthuprasath : Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w. Section 151 of Civil Procedure Code, praying to withdraw the case in H.M.O.P.No.75 of 2016 pending on the file of the Sub Court, Uthamapalayam and transfer the same to the Sub Court, Madurai.

Tr.C.M.P. (MD) Nos.177 of 2019

R.Prabhadevi : Petitioner/Petitioner

.. Vs ..

S.Muthuprasath : Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w. Section 151 of Civil Procedure Code, praying to withdraw the case in H.M.O.P.No.41 of 2016 pending on the file of the Sub Court, Uthamapalayam and transfer the same to the Sub Court, Madurai.

For Petitioner : Mr.R.M.Anbunidhi
in both cases

For Respondent : Mr.P.Mahendran
in both cases

**COMMON ORDER**

These two Transfer Civil Miscellaneous Petitions have been filed by the wife as against the husband, who is respondent in these proceedings.

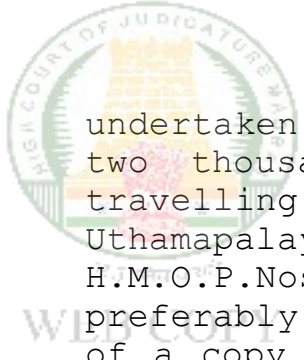
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2.It is admitted that the wife has filed a petition in H.M.O.P.No.75 of 2016 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. Similarly, the respondent/husband has filed H.M.O.P.No.41 of 2016 seeking divorce on the ground of cruelty. Both the proceedings have been filed and pending before the Sub Court, Uthamapalayam. The wife has filed a Transfer Civil Miscellaneous Petition to withdraw the proceedings in H.M.O.P.No.75 of 2016 and H.M.O.P.No.41 of 2016 respectively and to transfer the same to the Sub Court, Madurai. The transfer of proceedings is purely for the convenience of the wife who is the respondent in H.M.O.P.No.41 of 2016 and the petitioner in H.M.O.P.No.75 of 2016.

3.The learned Counsel appearing for the respondent submitted that the wife is also residing in a place in Bodinayakkanur within the jurisdiction of Sub Court, Uthamapalayam and that the trial has already been commenced in both the proceedings. It is further stated that the husband is employed in Bahrain (abroad) and is prepared to pay litigation expenses and travelling expenses for the wife to conduct the case at Uthamapalayam. It is also pointed out that both the proceedings should be clubbed and it would be convenient for both the parties if joint trial is ordered and both agreed for joint trial.

4.The learned Counsel appearing for the wife/petitioner in the Transfer Miscellaneous Petitions though reluctant to accept the proposal to conduct the case before the Sub Court, Uthamapalayam, this Court is of the view that in the interest of justice and convenience of both parties, the proceedings can be conducted before the Sub Court, Uthamapalayam. Since the respondent/husband is prepared to pay litigation expenses and travelling expenses to the wife, the interest of justice would be well served if the respondent pays Rs.2,000/- (Rupees Two thousand only) per hearing.

5.As a result, both the Transfer Civil Miscellaneous Petitions are dismissed. However, the respondent/husband is directed to pay a sum of Rs.2,000/- (Rupees two thousand only) to the petitioner/wife for every hearing of the case before the Sub Court, Uthamapalayam. It is represented that already a petition is filed for joint trial of both the proceedings, namely, H.M.O.P.No.41 and 75 of 2016 before the Sub Court, Uthamapalayam. The respondent/husband shall pay the money on the date of every hearing as directed above and it is open to the petitioner to move this Court in case of failure of respondent to make payment as



undertaken before this Court, namely, a sum of Rs.2,000/- (Rupees two thousand only) for every hearing towards litigation and travelling expenses for the wife. The learned Sub Judge, Uthamapalayam, is directed to expedite the trial and dispose of H.M.O.P.Nos.41 and 75 of 2016 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

The Subordinate Judge,
Uthamapalayam.

+ 1 CC TO Mr.N.Satheeshkumar, ADVOCATE IN SR No.69069
+ 1 CC TO Mr.P.Mahendran, ADVOCATE IN SR No.68846

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