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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2019

CORAM

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

Tr.C.M.P. (MD)No.52 of 2019

and

C.M.P. (MD)No.1390 of 2019

S.Kayalvizhi : Petitioner

.. Vs ..

K.Tamilselvan : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, praying to pass an order to withdraw H.M.O.P.No.1044 of 2018 on the file of the Family Court, Madurai, Madurai District Court, to transfer the case to Family Court, Dindigul, Dindigul District.

For Petitioner : Mr.A.Alexander

For Respondent : Mr.S.Poornachandran

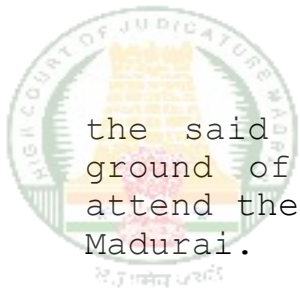
ORDER

This Transfer Civil Miscellaneous Petition is filed by the wife to withdraw the proceedings in H.M.O.P.No.1044 of 2018 from the file of the Family Court, Madurai, and to transfer to the Family Court at Dindigul.

2.The brief facts that are necessary for the disposal of this Transfer Civil Miscellaneous Petition are as follows:

2.1.The marriage between the petitioner and the respondent was solemnised on 16.05.2013 at Arilmighu Subramania Swamy Sannidhi, Chinnalapatti, Dindigul District. It is admitted that the petitioner and respondent were living together at Madurai after the marriage. The petitioner has made serious allegations against the respondent for dowry harassment demanding money and jewels from the petitioner. It is in the said circumstances, the wife has filed a petition in D.V.O.P. No.1 of 2018 on the file of the Judicial Magistrate No.III at Dindigul.

2.2.The respondent/husband filed a petition in H.M.O.P.No.903 of 2017 for restitution of conjugal rights before the Family Court, Madurai. Later, the wife filed a Transfer Civil Miscellaneous Petition (MD)No.220 of 2018 and at the instance of the petitioner/wife, the petition filed by the husband in H.M.O.P.No.903 of 2017 for restitution of conjugal rights has been transferred to the Family Court, Dindigul. Thereafter, the respondent/husband allowed the petition filed by him for restitution of conjugal rights to be dismissed for default. <https://hcservices.ecourts.gov.in/hcservices/> The respondent has filed H.M.O.P.No.1044 of 2018 seeking divorce on the ground of cruelty. The petitioner has in



the said circumstances filed the above petition mainly on the ground of convenience saying that it is difficult for her to attend the hearing with a two year old girl child from Dindigul to Madurai.

3.The learned Counsel appearing for the petitioner also pointed out that the earlier petition filed by the respondent for restitution of conjugal rights was allowed to be dismissed for default and the present petition for divorce has been filed. It is contended that the respondent has raised additional grounds making serious allegations doubting the conduct of the petitioner/wife. It is stated that the wife is having illicit affair with a person in Kodai Road. Though transfer of proceedings merely for the convenience of wife may not be appropriate in all cases, the conduct of the respondent/husband filing the earlier petition and withdrawing it, would show that the petitioner should be shown some lenience to enable her to diligently prosecute the case. The petitioner has already filed D.V.O.P. No.1 of 2018 on the file of the learned Judicial Magistrate No.III, Dindigul. The respondent/husband has to appear for the hearing at Dindigul in relation to the proceedings initiated for Domestic Violence. In such circumstances, the respondent also can get dates of hearing to match his presence in connection with the proceedings in D.V.O.P. No.1 of 2018. Since the petitioner is living with a tender female child, this Court is convinced that in the interest of justice, the proceedings in H.M.O.P.No.1044 of 2018 can be transferred to Family Court, Dindigul. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the proceedings in H.M.O.P.No.1044 of 2018 from the file of Family Court, Madurai is withdrawn and transferred to the Family Court, Dindigul.

4.The learned Counsel appearing for the respondent/husband requested this Court to issue appropriate direction to the Family Court, Dindigul, to dispose of the petition for divorce in H.M.O.P.No.1044 of 2018 within a reasonable time. The petitioner has no serious objection. Hence, the Family Court, Dindigul, is directed to dispose of H.M.O.P.No.1044 of 2018 filed by the husband which is now transferred from Family Court, Madurai, as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

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To

1.The Judge, Family Court,
Madurai.

2.The Judge, Family Court,
Dindigul.

+1 CC to M/s.A.ALEXANDER, Advocate (SR-68733[F] dated
14/06/2019)

srm

Tr.C.M.P.(MD)No.52 of 2019
14.06.2019

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