



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP (MD) No.62 of 2019
and
CMP (MD) No.1568 of 2019

Viswaja

... Petitioner

vs.

Muthusamy

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.223/2018 pending before the Sub Court, Sivakasi and transfer the same to the Family Court, Sivagangai.

For Petitioner : Mr.C.Susi Kumar
For Respondent : Mr.V.Meenakshi Sundaram

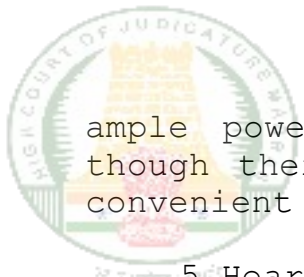
ORDER

This petition has been filed for a direction to transfer H.M.O.P.No.223/2018 from the Sub Court, Sivakasi to the Family Court, Sivagangai.

2.Learned counsel for the petitioner would aver among other things that the marriage between the petitioner and respondent was solemnized on 20.01.2016 as per the Hindu rites and customs and in the wedlock, a male child was born on 20.10.2016. Due to misunderstanding, they are living separately. While so, the respondent filed the above HMOP for divorce. Learned counsel further submitted that the petitioner is depending on her parents for livelihood. Hence, she is finding it difficult to travel from Manamadurai to Sivakasi, to attend every hearing of HMOP. Therefore, the petitioner has filed this transfer petition.

3.Learned counsel for the respondent would object for transfer and would state that the respondent is a Branch Manager, Indian Overseas Bank, Vembakottai, and therefore, it is difficult for him to appear before the Family Court, Sivagangai and he has no objection, if the case is transferred to the Sub Court, Sivagangai.

4.Learned counsel for the petitioner relying on a judgment of this Court in **Usha @ Ramalakshmi and another vs. P.Shanmugam reported in (2006) 4 MLJ 45**, would state that this Court has got



ample powers to transfer the case to the Sub Court, Sivagangai though there is a Family Court at Sivagangai, so that it will be convenient for both the parties to contest the case.

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

6. 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.**

7. Relying on the above judgment, I am inclined to allow this petition with the following directions:-

i) The learned Judge, Sub Court, Sivakasi, is directed to transmit the entire records in HMOP.No.223 2018 to the file of the Sub Court, Sivagangai, within a period of two weeks from the date of receipt of copy of this order.

ii) On receipt of the case papers in HMOP.No.223 2018, the learned Judge, Sub Court, Sivagangai, is directed to 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 (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To
1) The Judge,
Sub Court,
Sivagangai.

2) The Judge,
Sub Court,
Sivakasi.

Copy to: The Section Officer, Judicial Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to Mr.C.SUSIKUMAR, Advocate, SR.No. 59623

+1cc to Mr.D.NALALTHAMBI, Advocate, SR.No. 59811

TR.CMP (MD) No.62 of 2019

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