



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T. ASHA

TR.C.M.P. (MD)No.139 of 2019
and C.M.P (MD)No.3066 of 2019

Sivagami

... Petitioner/Respondent

Vs.

G.Vivek Pathra

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the H.M.O.P.No.681 of 2018 on the file of the Principal Family Court, Coimbatore, and to transfer the same to the file of the Sub-Court, Palani for trial.

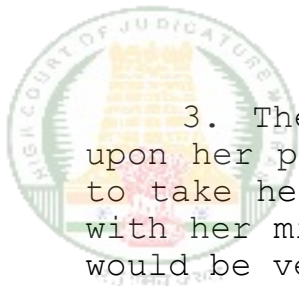
For Petitioner : Mr.D.Venkatesh

For Respondent : No appearance

J U D G M E N T

The petitioner is the wife. The respondent/husband, despite being served with notice, has not entered appearance either in person or through counsel. The matter is therefore taken up for hearing.

2. A perusal of the affidavit would show that the marriage between the petitioner and the respondent, which took place on 13.04.2014, has run into rough weather. Out of the wedlock, they are blessed with a baby girl, who is now aged 3 years named Pooja. It is seen that the petitioner is none other than the respondent's cousin. The petitioner would submit that she was subjected to ill-treatment at her matrimonial home and in this interregnum, she had also become pregnant and after she had come to her parental home for confinement and subsequent delivery, the respondent/husband refused to take back both the petitioner and the child. The respondent/husband has also not been maintaining her and therefore, she was constrained to file M.C.No.9 of 2018 before the Judicial Magistrate, Palani. Despite taking out of the application for maintenance, the husband has not come forward to maintain the petitioner and her minor child. Without maintaining the wife and the child, the husband has proceeded to file H.M.O.P.No.681 of 2018 on the file of the Principal Family Court, Coimbatore, for divorce on the ground of cruelty. He had also claimed that the petitioner had deserted him and not even informed him about birth of the child.



3. The petitioner would submit that she is totally depending upon her parents for her livelihood and she has the responsibility to take her minor child and hence, travel all the way to Coimbatore with her minor child to attend the hearing in H.M.O.P.No.681 of 2018 would be very expensive and would add additional burden.

4. Considering the above factors, this Court is inclined to issue the following directions:

i) The learned Judge, Principal Family Court, Coimbatore, is directed to transmit the entire records in H.M.O.P.No. 681 of 2018 to the file of the Sub Court, Palani, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Subordinate Judge, Palani, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No. 681 of 2018 as expeditiously as possible in accordance with law.

5. In the result, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

CM

To,

1.The Judge,
Principal Family Court, Coimbatore.

2.The Subordinate Judge, Palani.

+1 CC to M/s.D. VENKATESH, Advocate (SR-91088[F] dated 03/10/2019)

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JM/18.10.2019/2P/4C