



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.07.2019
CORAM

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

Tr.C.M.P. (MD)No.185 of 2019
and
C.M.P. (MD)No.4269 of 2019

Nivethitha : Petitioner/Respondent

.. Vs ..

D.Sivaneshpandiyan : Respondent/Petitioner

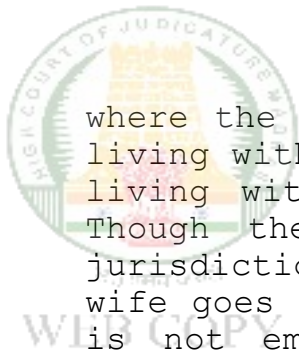
PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, praying to withdraw and transfer the case in H.M.O.P.No.56 of 2019 on the file of the learned Family Judge, Dindigul, Dindigul District to the Subordinate Court at Uthamapalayam, Theni District.

For Petitioner : Mr.A.Prasanna Rajadurai
for Mr.S.Muthalraj
For Respondent : Mr.J.Lawrance

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in H.M.O.P.No.56 of 2019 on the file of the learned Family Judge, Dindigul, Dindigul District to the Subordinate Court at Uthamapalayam, Theni District.

2.The petitioner is the wife. The marriage between the petitioner and the respondent was solemnised on 19.05.2016 as per Hindu rites and customs. It is admitted that the wife had earlier filed a petition in H.M.O.P.No.14 of 2018 on the file of the Sub Court, Theni for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 and that the said petition was, however, closed. It is stated by the petitioner that the earlier petition filed by the wife was closed as the husband came forward to take the petitioner with him, promising joint living. It is further stated that the joint living could not continue for long. Now, the husband has filed a petition in H.M.O.P.No.56 of 2019 for divorce on the ground of cruelty under Section 13(1) (i-a) of the Hindu Marriage Act, 1955. The present petition for transfer is filed purely on the ground of convenience. No doubt, it is true that the convenience of the wife is relevant. It is also the position that the place of residence of the wife confer jurisdiction to the Court



where the wife resides. However, the petitioner at present is not living with her parents. It is stated by the petitioner that she is living with her relative who is in Cumbam along with her child. Though the Court where the wife resides has jurisdiction, the jurisdiction of the Court cannot be changed to places wherever the wife goes temporarily due to personal reasons. The petitioner wife is not employed. When the petitioner is not living with her husband, it is expected to be with her parents. When it is not in dispute that the petitioner along with her child is living at Cumbam in her relative's house, the petitioner is not expected to cite the same as her permanent residence. This Court is of the view that this petition is filed unnecessarily to transfer the proceedings. The petitioner has given wrong particulars about her parental house just for the purpose of this case. This petition lacks *bona fides*. In such circumstances, the learned Counsel appearing for the respondent is agreeable for transfer of the proceedings to Theni. Therefore, this Court is inclined to pass the following order:

"The proceedings in H.M.O.P.No.56 of 2019 pending on the file of the Family Court, Dindigul is withdrawn and transferred to Sub Court, Theni, Theni District."

3.This Transfer Civil Miscellaneous Petition is ordered accordingly. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The Judge,
Family Court, Dindigul.
2. The Sub Judge,
Theni.
3. The Sub Court,
Uthamapalayam, Theni District

+1 CC to Mr.J.LAWARANCE, Advocate (SR-77078[F] dated 24/07/2019)
+1 CC to Mr.NA.PALANIYANDI, Advocate (SR-77182[F] dated 24/07/2019)

Tr.C.M.P. (MD)No.185 of 2019

23.07.2019