



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.08.2019
CORAM

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

WEB COPY

Tr.C.M.P. (MD) No.245 of 2019
and
C.M.P. (MD) No.5683 of 2019

1.Nagalakshmi
2.Minor.Divyaabharathi
3.Minor.Janapiryan : Petitioners/Respondents
[Petitioners 2 and 3 are
represented by their mother and
natural guardian 1st petitioner]

.. Vs ..

Senthilkumar : Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, praying to withdraw H.M.O.P.No.132 of 2017 on the file of Sub Court, Palani and transfer the same to Sub Court, Paramakudi.

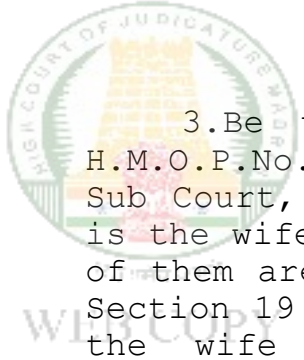
For Petitioners : Mr.G.Prabahari

For Respondent : Mr.D.Venkatesh

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw and transfer H.M.O.P.No.132 of 2017 on the file of the Sub Court, Palani, to the Sub Court, Paramakudi.

2.It is a peculiar case where the wife has filed a petition for transfer of proceedings in H.M.O.P.No.132 of 2017 which is pending on the file of the Sub Court, Palani. H.M.O.P.No.132 of 2017 is filed by the husband for restitution of conjugal rights. It is admitted before this Court that the husband filed earlier a petition in H.M.O.P.No.124 of 2008 on the file of the Sub Court, Palani, for divorce and obtained an *ex parte* order. It is also admitted that the wife had filed another petition in H.M.O.P.No.1 of 2009 on the file of the Sub Court, Paramakudi and obtained *ex parte* order for restitution of conjugal rights. However, it is admitted by the wife in the affidavit filed in support of this petition that there was a compromise and the petitioner agreed for setting aside the order in H.M.O.P.No.124 of 2008.



3.Be that as it may, the husband has filed a petition in H.M.O.P.No.132 of 2017 for restitution of conjugal rights before the Sub Court, Palani. It is not in dispute that the first petitioner is the wife and the petitioners 2 and 3 are her minor children. All of them are residing at Paramakudi, Ramanathapuram District. Under Section 19 of the Hindu Marriage Act, the place of the residence of the wife confers jurisdiction for the Court to decide the matrimonial disputes between the husband and wife. Hence, Sub Court, Paramakudi, has jurisdiction and in a petition filed by the husband, the convenience of the wife is also relevant. In the present case, the wife is residing along with her minor children and hence, it will be in the interest of justice, to transfer the proceedings to the place of residence of the wife. Accordingly, this Civil Revision Petition is allowed and the proceedings in H.M.O.P.No.132 of 2017 pending on the file of the Sub Court, Palani is withdrawn and transferred to Sub Court, Paramakudi. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Subordinate Judge,
Palani.

2.The Subordinate Judge,
Paramakudi.

+1 CC to M/s.G. PRABAHARI, Advocate (SR-83692[F] dated 27/08/2019)
+1 CC to M/s.D.VENKATESH, Advocate (SR-84025[F] dated 29/08/2019)

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27.08.2019

srn

JM/17.09.2019/2P/5C