



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2019

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

Tr.C.M.P(MD)No.254 of 2019

and

C.M.P. (MD) No.5911 of 2019

Muthumari

... Petitioner/Respondent

Vs.

Venkattaperumal

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.117 of 2018 on the file of the Principal Sub-Court, Tenkasi and to transfer the same to the file of the Family Court, Tirunelveli for trial along with H.M.O.P.No.93 of 2019.

For Petitioner : Mr.D.Venkatesh

For Respondent : No appearance

J U D G M E N T

This Transfer Civil Miscellaneous Petition is filed by the wife and she is arrayed as the respondent in H.M.O.P.No.117 of 2018 pending on the file of the Principal Subordinate Court, Tenkasi. The petitioner has filed this petition for transfer of the proceedings before the Principal Sub Judge, Tenkasi to the file of the Family Court, Tirunelveli, where a petition filed by the petitioner herein for divorce is pending in H.M.O.P.No.93 of 2019.

2. The averments made by the petitioner is that her marriage with the respondent had taken place on 05.07.2012 and though the marriage was a result of love affair, after the marriage the true colours of the husband was revealed. The respondent/ husband had been treating the petitioner with great deal of cruelty and is also prone to drinking. Therefore, the petitioner had left him and returned to her parental home. The respondent/husband filed H.M.O.P.No.117 of 2018 before the Principal Sub Court, Tenkasi for restitution of conjugal rights. The petitioner has filed a petition for divorce in H.M.O.P.No.93 of 2019 on the file of the Family Court, Tirunelveli. The petitioner also filed a petition for maintenance, which was ordered. However, the respondent has not cleared such arrears.

3. The petitioner would submit that she has to travel to 150 kms to attend the hearings in H.M.O.P.No.117 of 2018, which is pending on the file of the Principal Sub Court, Tenkasi. Being



dependant on her parents for her expenses, the expense for travel would be an additional burden on the parents. That apart, the Family Court, Tirunelveli is vested with the jurisdiction to try both petitions for divorce and the petition for restitution of conjugal rights on account of the residence of the petitioner being with the jurisdiction of the Family Court, Tirunelveli. Considering the above factors and the fact that the husband has not cleared maintenance arrears to the wife this Court is inclined to allow the Transfer Civil Miscellaneous Petition.

4. This Court is therefore issuing following directions:
- i) The learned Principal Subordinate Judge, Tenkasi, is directed to transmit the entire records in H.M.O.P.No.117 of 2018 to the file of the Family Court, Tirunelveli within a period of two weeks from the date of receipt of copy of this order.
 - ii) the Judge, Family Court, Tirunelveli, after obtaining the records on transfer, is directed to try both H.M.O.P.No.117 of 2018 and H.M.O.P.No.93 of 2019 and dispose of the same 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 ()

// True Copy //

Sub Assistant Registrar(CS)

CM

To,

- 1.The Family Court, Tirunelveli
- 2.The Principal Subordinate Judge,Tenkasi

+1 CC to Mr.D.VENKATESH, Advocate (SR-92726[F] dated 18/10/2019)

Tr.C.M.P(MD)No.254 of 2019
and C.M.P. (MD) No.5911 of 2019
17.10.2019