



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD)No.325 of 2019

and

C.M.P(MD) No.7627 of 2019

A.Revathi Narmatha

... Petitioner/Respondent

Vs.

M.S.Sivathanu

... Respondent/Petitioner

PRAYER:- Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.70 of 2018 on the file of the Principal Subordinate Court, Nagercoil and transfer the same to the file of the Family Court, Tirunelveli.

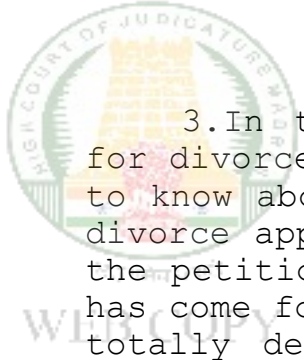
For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.K.P.Narayanakumar

ORDER

The above Transfer Civil Miscellaneous Petition has been filed at the behest of the wife seeking to transfer the petition for divorce filed by the husband from the Principal Subordinate Court, Nagercoil in H.M.O.P.No.70 of 2018 to the file of Family Court, Tirunelveli.

2.In the affidavit filed in support of this petition, the petitioner has stated that she had married the respondent on 10.09.2017 at Kanyakumari. The respondent was given jewels, cash as well as household articles as dowry at the time of her marriage. The petitioner was working in the Bank and since the respondent had promised to take her to Doha, Qatar where he is working, she had also resigned her Job. After marriage, the petitioner suffered a great deal of cruelty at the hands of the respondent's family members and the respondent on the ground that she should bring additional dowry. Therefore, the petitioner was constrained to give a complaint before the All Women Police Station, Nagercoil, on account of this harassment. Thereafter, the petitioner had left the matrimonial home and returned to her parental home. The petitioner, thereafter, filed an application for maintenance in M.C.No.55 of 2018 and the notice was served on the respondent's address at Nagercoil. His family members are residing. Thereafter, on 25.02.2019, an ex parte order was passed.



3. In the meantime, the respondent has taken out the petition for divorce in H.M.O.P(MD) No.70 of 2018 and the petitioner has come to know about same only on receiving the summons. The petition for divorce appears to be a counter-blast for the maintenance case that the petitioner has filed. On receiving the summons, the petitioner has come forward with the present petition on the ground that she is totally depending on her parents for her financial needs and in order to attend the case at Nagercoil, she will have to travel about 160 kms and since possible for her to travel alone he may used to take along somebody this would add to her parents burden. The respondent has not complied with the order passed in M.C.No.55 of 2018 to date. She would also submit that the Family Court at Tirunelveli is also conferred with the jurisdiction to try the divorce petition, as the petitioner is residing at Thirunelveli.

4. The learned counsel for the petitioner on the last occasion submitted that as on date, the total arrears due towards the maintenance is a sum of Rs.84,000/-. The learned counsel for the respondent sought time to get instructions.

5. Today, when the matter is called, the learned counsel for the respondent/husband would submit that he has filed an application to set aside the *ex parte* order in the maintenance case and since he is contesting the petition the parties can work out their remedy in the maintenance case.

6. Taking into consideration the contention of the petitioner, this Court finds considerable force in the argument put forward by the petitioner. Hence, the proceeding in H.M.O.P.No.70 of 2018 pending before the Principal Sub Court, Nagercoil, is directed to be withdrawn and transferred to the file of the Family Court, Tirunelveli. The learned Principal Subordinate Judge, Nagercoil,, is directed to transmit the entire records in H.M.O.P.No.70 of 2018 to the Family Court, Tirunelveli and the learned Judge, Family Court, Tirunelveli, is directed to dispose of the same on merits and in accordance with law.

7. It is also seen that as on date, the arrears towards the maintenance is a sum of Rs.84,000/-. The notice has been sent to the respondent to the very same address to which notice in this transfer civil miscellaneous petition has been served. Therefore the return of the notice sent in the maintenance case appears to be deliberate. The respondent has deliberately allowed an *ex parte* order to be passed in the maintenance case. The respondent shall pay the said sum of Rs.84,000/- to the petitioner within a period of three weeks from the date of receipt of a copy of this order. It is made clear that until the payment is made to the petitioner by the respondent, H.M.O.P.No.70 of 2018 shall be kept in abeyance.



8. With the above directions, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal Subordinate Judge, Nagercoil.

2. The Judge, Family Court, Tirunelveli.

+1CC TO MR.S.SURESH MANICKAM, Advocate Sr. No.96723

+1CC TO MR.K.P.NARAYANA KUMAR, Advocate Sr. No.96902

+1CC TO MR.R.J.KARTHICK, Advocate Sr. No. 97166

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