



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2019

CORAM

WEB COPY

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

Tr.C.M.P. (MD)No.364 of 2019
and
C.M.P(MD) No.8389 of 2019

S.Jothilakshmi ... Petitioner
Vs.
A.K.P.Saravanan ... Respondent

PRAYER:- Petition filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.305 of 2018 on the file of the learned Sub Court, Pudhukottai and transfer the same to the learned Family Court, Madurai to be tried along with H.M.O.P.No.1151 of 2018.

For Petitioner : Mrs.Porkodi Karnan,
for M/S.Polax Legal Solutions

For Respondent : Mr.T.Lenin Kumar

ORDER

The above Transfer Civil Miscellaneous Petition has been filed at the behest of the wife for transferring the case in H.M.O.P.No.305 of 2018, which is filed by the husband on the file of the learned Sub Court, Pudhukottai seeking divorce to the file of the learned Family Court, Madurai for the joint trial along with H.M.O.P.No.1151 of 2018.

2.The learned counsel appearing on behalf of the petitioner would submit that the reasons for seeking transfer is on account of the fact that the petitioner and the respondent have a special child, who is suffering from cerebral palsy and it is the petitioner, who has to take care of him. That apart, she is incurring expenses for the treatment of the child and the respondent/husband has not been maintaining the child or the petitioner. The petitioner is incurring a sum of Rs.45,000/- per month for her son's medical expenses. In these circumstances, if she is directed to contest the case at the Sub Court, Pudhukottai, she would be put to great hardship both physically and financially.

3.The learned counsel appearing on behalf of the respondent on the other hand would submit that the respondent is unemployed and he is ready to workout for settlement and therefore, the application may not be transferred.



4.The proceedings for divorce has been initiated by the wife before the Family Court, Madurai. The fact that the petitioner has to take care of her son, who is suffering from cerebral palsy, has to be taken note of, since her presence is very essential for the child. Under these circumstances, if she is made travel to Pudukkottai, to attend hearings, it would be put great strain both mentally as well as the financially. She will also have to leave her son behind.

5.Under these circumstances, I am of the view that the proceedings in H.M.O.P.No.305 of 2018 on the file of the learned Sub Court, Pudhukottai has to be transferred to the file Family Court, Madurai. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P(MD) No.305 of 2018 is ordered to be withdrawn and transferred from the file of the Sub Court, Pudhukottai, to the file of Family Court, Madurai. The learned Sub Court, Pudhukottai, is directed to transmit the entire records in H.M.O.P(MD) No.305 of 2018 to the Family Court, Madurai and the learned Family Court, Madurai is directed to try the above said H.M.O.P. along with H.M.O.P.No.1151 of 2018 dispose of both the proceedings on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Sub Court, Pudhukottai,

2.The Family Court, Madurai.

+1 CC to M/s.PORKODI KARNAN, Advocate (SR-94312[F]dated 24/10/2019)

+1 CC to Mr.T.LENIN KUMAR, Advocate (SR-94384[F] dated 24/10/2019)

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