



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED : 21.10.2019
CORAM**

THE HONOURABLE MS.JUSTICE P.T. ASHA

**TR.C.M.P. (MD)No.379 of 2019
and C.M.P (MD)No.8657 of 2019**

S.Suriyakala ... Petitioner/Respondent

Vs.

C.Muthukumar ...Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw H.M.O.P.No.3046 of 2019 on the file of the Family Court IV, Madras and transfer the same to the Sub Court, Kovilpatti.

For Petitioner : Mr.S.Pon Senthilkumaran

For Respondent : Mr.R.Gondaraj

J U D G M E N T

The above transfer civil miscellaneous petition is filed by wife seeking to transfer H.M.O.P.No.3046 of 2019 pending on the file of the IV Family Court, Madras to the file of Subordinate Court at Kovilpatty where the petition filed by the wife for divorce in H.M.O.P.No.131 of 2018 is pending.

2. The husband has entered appearance in the said petition and has also filed a counter as early as in January 2019. Thereafter, the husband has moved a petition for restitution of conjugal rights in the month of July 2019.

3. The wife seeks transfer on the following grounds:

i) she has lived in matrimonial home only for a period of 11 days and she had been driven out to her parental home by her husband her in-laws

ii) she has to travel for several hours from Kovilpatti to Chennai for every hearing since the matter is pending before the Family Court.

iii) The petition for restitution of conjugal rights is later in time than the petition for divorce filed by the wife.

4. The learned counsel for the respondent has opposed for transfer.



5. Heard the learned counsels and perused the papers.

6. The petition for divorce filed by the wife is being actively contested by the husband who has already filed a counter in the said proceedings. Counter was filed as early as in the year 2011 and it is only in July 2017 a petition for restitution of conjugal rights has been moved by the husband that too at the Family Court, Chennai. Admittedly the husband is not paying maintenance to the wife and that being so, he cannot expect the wife to travel all the way from Kovilpatti to Chennai to attend the hearings.

7. Considering the above factors I am of the view that interest of justice would be sub-served if the case in H.M.O.P.No.3046 of 2019 is transferred.

8. Accordingly, this Court issues the following directions:

- i) The learned Judge, IV Family Court, Madras, is directed to transmit the entire records in H.M.O.P.No.3046 of 2019 to the file of the Subordinate Court, Kovilpatti, within a period of two weeks from the date of receipt of copy of this order.
- ii) the learned Subordinate Judge, Kovilpatti after obtaining the records on transfer, is directed to try both H.M.O.P. 3046 of 2019 and 131 of 2018 and dispose of the same as expeditiously as possible in accordance with law.

9. In the result, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

CM

To,

1.The Judge, IV Family Court, Madras.

2.The Subordinate Judge, Kovilpatti.

+1 CC to M/s.S.PON SENTHIL KUMARAN, Advocate (SR-93398[F] dated 21/10/2019)

+1 CC to M/s.R.GOVINDRAJ, Advocate (SR-93499[F] dated 22/10/2019)

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JMN(15.11.2019) 2P : 5C

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