



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.10.2019
CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD)No.177 of 2017
and
C.M.P(MD) No.4051 of 2017

Dhivya ... Petitioner/Respondent
Vs.
E.Shanmugavel ... Respondent/Petitioner

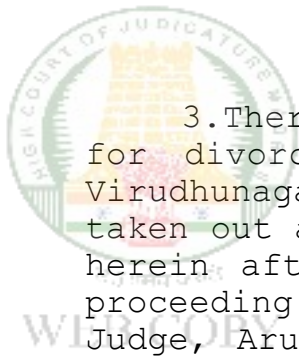
PRAYER:- Petition filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.191 of 2015 pending on the file of the learned Subordinate Judge, Aruppukkottai, Virudhunagar District and transfer the same to the file of any other competent Court in Madurai District.

For Petitioner : Mr.M.Rajendran
For Respondent : Mr.S.Shankar Ganesh

ORDER

The above Transfer Civil Miscellaneous Petition has been filed at the behest of the wife seeking to transfer H.M.O.P.No.191 of 2015 filed by the husband for divorce before the learned Subordinate Judge, Aruppukkottai, Virudhunagar District, to the Family Court, Madurai.

2.The case of the petitioner is that the marriage between her and the respondent had been solemnized on 11.05.2014 at Aruppukkottai. After marriage, she has come to know that the respondent has made a false statement with reference to his employment and that he did not have any employment. Further he had started a business and sustained heavy financial loss in his business. Meanwhile, the petitioner had conceived and the respondent and his family members were compelling her to undergo abortion, but she has refused. Thereafter, she delivered a male child. It is her case that the respondent/husband had never cared for the child and had not even taken any attempts to visit him. The petitioner would state that after delivery, she had returned the matrimonial home where she was ill-treated and she was forced to return to her parental home, on account of this harassment. The petitioner's brother had lodged the complaint against the respondent and his family members.



3. Thereafter, the respondent had filed H.M.O.P.No.191 of 2015 for divorce before the learned Subordinate Judge, Aruppukottai, Virudhunagar District. The petitioner would submit that she had taken out an application under Section 24 of the Hindu Marriage Act, herein after called the Act, claiming interim maintenance in the proceeding in H.M.O.P.No.191 of 2015 and the learned Subordinate Judge, Aruppukottai, Virudhunagar District, was pleased to pass an order of granting maintenance from 01.04.2016 at the rate of Rs.5,000/- per month. The learned counsel for the petitioner would submit that no amount has been paid till date in compliance of the said order.

4. The petitioner is seeking a transfer on the ground that she is totally depending financially and physically on her parents and due to day-to-day expenses, it would very difficult to travel from Madurai to Aruppukottai to attend the hearing. That apart, the Court at Madurai, has also the jurisdiction to try the petition for divorce as the petitioner is residing here.

5. Considering the reason put forward which is justifiable, this Court is inclined to allow the Transfer Civil Miscellaneous petition and the proceeding in H.M.O.P.No.191 of 2015 pending before the Sub Court, Aruppukkottai, Virudhunagar District, is directed to be withdrawn and transferred to the file of Family Court, Madurai. The learned Subordinate Judge, Aruppukkottai, Virudhunagar District, is directed to transmit the entire records in H.M.O.P.No.191 of 2015 to the Family Court, Madurai and the learned Judge, Family Court, Madurai, is directed to dispose of the same on merits and in accordance with law.

6. It is made clear that the learned Judge, Family Court, Madurai shall take up H.M.O.P.No.191 of 2015 for hearing, only after the respondent herein shows the proof that he is complied with the order passed in the petition filed under Section 24 of the Act by the petitioner/wife in H.M.O.P.No.191 of 2015. Until then, the HMOP shall be kept in abeyance. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

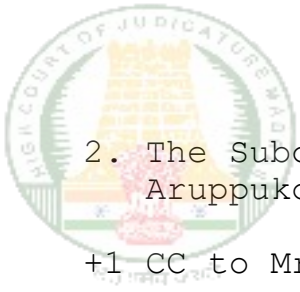
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Sub Assistant Registrar (CS)

To

1. The Judge, Family Court,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Subordinate Judge,
Aruppukottai, Virudhunagar District.

+1 CC to Mr.M.RAJENDRAN, Advocate (SR-94356[F] dated 24/10/2019)

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