



WEB COPY

TR C.M.P (MD) Nos.64 and 66 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12.03.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

TR C.M.P (MD) Nos.64 and 66 of 2020

and

C.M.P(MD) Nos.1147 and 1159 of 2020

A.Pandeeswari

.... Petitioner in both Tr.C.M.Ps.

-Vs-

R.Annadurai

... Respondent in both Tr.C.M.Ps.

Common Prayer: Transfer Civil Miscellaneous Petitions are filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.No.91 of 2019 and H.M.O.P.No.33 of 2019 respectively on the file of Sub Court, Mudukulathur and to transfer them to any other competent Court at Aruppukottai, Virudhunagar District.

For Petitioner(in both cases) : Mr.F.X.Eugene

For Respondent (in both cases) : Mr.G.Anbu Saravanan

C O M M O N O R D E R

The above Transfer Civil Miscellaneous petitions have been filed by the wife seeking the transfer of H.M.O.P No.91 of 2019 and H.M.O.P.No.33 of 2019 on the file of the Sub Court, Mudukulathur, to any other competent Court, at Virudhunagar District.

2.The petitioner herein is the wife and the respondent herein is the husband. The husband has filed a petition in H.M.O.P.No.33 of 2019 for divorce on the file of the Sub Court, Mudukulathur and the wife has filed a petition in H.M.O.P.No.91 of 2019 for restitution of conjugal rights pending before the Sub Court, Mudukulathur.

3.On the side of the petitioner, it is stated that the husband is working as Branch Manager in Tamil Nadu State Transport Corporation, Mudukulathur and the husband threatened the wife to murder her in a bus accident. The husband has already filed a divorce petition in H.M.O.P.No.10 of 2007 and the same was dismissed by the Sub Court, Paramakudi on 16.11.2010. The second petition filed by the husband is not maintainable. Due to life threat, the petitioner prayed that the case may be transferred to some other Court.

4.It is stated that the husband is living with some other lady and he recommended the name of that lady to be included in his pension papers and other official proceedings and to legalise their



relationship, the husband is now trying to murder the wife.

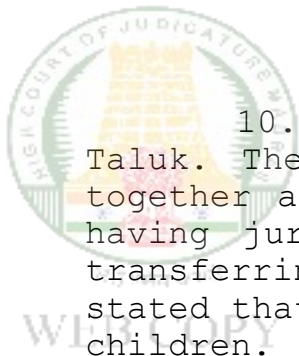
5. On the side of the respondent, it is stated that the respondent has already filed a petition for divorce in the year 2007 and that petition was dismissed on 16.11.2010. Even after 10 years, the petitioner never turned up to live with her husband. Hence, the husband filed a second petition for divorce. It is further stated that the wife has filed a petition for maintenance, which is pending before the learned Judicial Magistrate, Kamuthi. The husband is paying the maintenance regularly. Now the petitioner has filed a petition for enhancement of the maintenance amount. The petitioner is attending the Court hearing on all the dates. There is no life threat as alleged by the petitioners.

6. It is further stated that both the parties are residing at Kamuthi and the marriage took place at Kamuthi and they lastly lived together at Kamuthi. No other Court is having jurisdiction to try this case.

7. It is stated that the wife questioned the maintainability of the divorce petitions filed by the husband. That petition was dismissed by the lower Court. The wife filed a petition under Article 226 of Constitution of India. When the wife questioned the maintainability of the divorce petition, she cannot sought for an order of transfer of the case thereby accepting the maintainability of the divorce petition.

8. It is seen that the husband filed a divorce petition in H.M.O.P.No.10 of 2007 and the same was dismissed on 16.11.2010 by the learned Sub Judge, Paramakudi. After 10 years, the husband filed a second divorce petition in H.M.O.P.No.33 of 2019. After the filing of that case, the wife has filed a petition seeking for restitution of conjugal rights in H.M.O.P.No.91 of 2019. The wife questioned the maintainability of H.M.O.P.No.33 of 2019, as the petition is the second petition for the same relief and that petition was dismissed by the lower Court. Against which, the wife preferred a civil revision petition, which is pending before this Court.

9. The only reason for transfer as alleged by the wife is that there is a life threat for her by the husband. But it is seen that the wife has filed maintenance petition before the learned Judicial Magistrate, Kamuthi and is getting maintenance and that she has also filed enhancement petition before the learned Judicial Magistrate, Kamuthi and the enhancement petition is still pending. When the wife is able to attend the Court at Kamuthi without any fear of life threat the reason stated by the petitioner in this petition is not acceptable. The wife is questioning the maintainability of H.M.O.P.No.91 of 2019, per contra she seek a prayer of transferring the petition thereby indirectly admitting the maintainability.



10.It is seen that both the parties are residing at Kamuthi Taluk. The marriage took place at Kamuthi and they lastly lived together at Kamuthi. In the above circumstances, no other Court is having jurisdiction to try the H.M.O.Ps. The reasons stated for transferring the petitions are neither valid nor acceptable. It is stated that the husband is going to retire shortly and they have two children. Hence, a direction is issued to the learned Sub Judge, Mudukulathur to dispose of both the cases within a period of four months from the date of receipt of copy of this order.

11.With the above direction, these Transfer Civil Miscellaneous Petitions are dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

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Sub Assistant Registrar(CS)

MRN

To
The Sub Judge, Mudukulathur.

Copy to: The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.G.ANBUSARAVANAN, Advocate (SR-11503 and 11504)