



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

TR.C.M.P.(MD)No.21 of 2021

and

C.M.P.(MD)No.356 of 2021

WEB COPY

Thirumuruga Pandiyan : Petitioner/Respondent
Vs.
Satheeswari : Respondent/ Petitioner

PRAYER:- The petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer H.M.G.W.O.P.No.40 of 2020 from the file of the Principal District and Sessions Court, Theni to Principal District and Sessions Court, Tiruppur.

For Petitioner :Mr.A.Balakrishnan
For Respondent :Mr.K.Vinayagam

ORDER

The petitioner, who is the father of the minor, seeks transfer of H.M.G.W.O.P.No.40 of 2020 pending on the file of the Principal District and Sessions Court, Theni to Principal District and Sessions Court, Tiruppur.

2.Transfer is sought for mainly on the ground that the minor ordinarily resides at Tiruppur and therefore, it is only the Court at Tiruppur that has got jurisdiction, since the application is one for appointment of a guardian for the person of minor.

3.I have heard Mr.A.Balakrishnan, learned Counsel for the petitioner and Mr.K.Vinayagam, learned Counsel for the respondent.

4.Though the learned Counsel for the respondent would submit that the wife is a resident of Theni and therefore, she had filed the petition at Theni, I do not think that the proceeding could be allowed to be continued at Theni, in view of the provisions of Section 9 of the Guardian and Wards Act, 1890, which are applicable to cases involving guardianship of Hindu minors also, in view of the provisions of Section 2 of the Hindu Minority and Guardianship Act, 1956, which declares that the said Act shall be supplemental or in addition to the provisions of the Guardian and Wards Act, 1890. Section 9 of the Guardian and Wards Act, 1890, reads as follows:

"9.Court having jurisdiction to entertain application.- (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship



of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction."

5. In view of the said clear provision, which restricts the jurisdiction of the Court, in cases of appointment of guardian for the person of the minor to the place, where the minor ordinarily resides, the proceeding in H.M.G.W.O.P.No.40 of 2020 is withdrawn from the file of the Principal District and Sessions Court, Theni and transferred to the file of Principal District and Sessions Court, Tiruppur, to be tried and disposed of in accordance with law.

6. The Transfer Civil Miscellaneous Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Principal District and Sessions Judge, Theni.

2. The Principal District and Sessions Judge, Tiruppur.

+1 CC to M/s.A.BALA KRISHNAN, Advocate (SR-8823[F] dated 04/03/2021)

TR.C.M.P. (MD)No.21 of 2021
03.03.2021

MJ(CO)

KB(16.03.2021) 2P 4C