



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

Tr.C.M.P (MD)No.179 of 2019
and
C.M.P(MD) No.4093 of 2019

R.Jhansy ... Petitioner/Respondent

-Vs-

P.Vignesh ... Respondent /Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.73 of 2019, on the file of Sub Court, Theni and transfer the same to the competent Court at Sivakasi.

For Petitioner : Mr.S.Venkatesh
For Respondent : Mr.J.Senthil Kumar

O R D E R

The petitioner/wife seeks transfer of HMOP No.73 of 2019, on the file of the Sub Court, Theni (now transferred and renumbered as HMOP No.189 of 2020, on the file of the Family Court, Theni) to any competent Court at Sivakasi.

2.The said original petition was filed by the husband seeking divorce under Section 13 1(i-a) of Hindu Marriage Act. Transfer is sought for mainly on the ground of convenience, as the wife is a resident of Sattur in Virudhunagar District.

3.Though the transfer petition was filed on 01.04.2019, an order of interim stay was granted by this Court on 16.07.2019. In the interregnum, it appears that the respondent before the Subordinate Court, Theni was set exparte decree for divorce was came to be passed. The respondent filed an application to set aside the exparte order and during the pendency of the said application, the proceedings were transferred to the Family Court at Theni. Upon transfer, the main case was renumbered as HMOP No.181 of 2020 and I.A No.3 of 2019 for setting aside the exparte order was renumbered as I.A No.4 of 2020 and a conditional order was passed directing the petitioner wife to pay a costs of Rs.1,000/- to the District Legal Services Authority on or before 26.03.2020 and the matter was directed to be listed on 27.03.2020, for reporting compliance.



Noting that the proceedings have been going on, despite this Court having granted the stay, I had called for a report from the Family Court, Theni and the Subordinate Court, Theni. The learned Family Judge, Theni had sent a report stating that in view of COVID-19, pandemic lockdown from 23.03.2020 and the fact that the petitioner in I.A.No.4 of 2020, did not report compliance of the conditional order, I.A.No.4 of 2020 is also kept pending. This report is dated 12.05.2020.

4.Today, when the matter is listed, Mr.S.Venkatesh, the learned counsel appearing for the petitioner/wife had produced the receipt issued by the Theni District Legal Services Authority, evidencing a receipt of Rs.1,000/- on 23.03.2020. It is seen there from that the conditional order passed by the Family Court on 18.03.2020, has been complied with and therefore, I.A.No.4 of 2020 will have to be allowed. Hence, I.A.No.4 of 2020, is withdrawn to this Court and the same is allowed.

5.On the request of transfer, the learned counsel appearing for the respondent would submit that if the proceedings are to be transferred to any other Family Court outside Theni, he will have to travel from Theni to the transferee Court, for every hearing and considerable hardship would be caused to him in that process. He would also request that the Original Petition may be transferred to a neutral destination, preferably a Subordinate Court, where the presence of the parties for every hearing is not required.

6.Considering the said request made by the learned counsel for the respondent, this original Petition in H.M.O.P.No.189 of 2020, pending on the file of the Family Court, Theni is withdrawn and transferred to the file of Principal Subordinate Court, Srivilliputhur, to be disposed of in accordance with law. The Family Court, Theni is directed to transmit the papers to the Principal Subordinate Court, Srivilliputhur forthwith.

7.Accordingly, this Transfer Civil Miscellaneous Petition is disposed of. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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



1.The Judge, Family Court, Theni

2.The Principal Subordinate Judge,
The Principal Subordinate Court, Srivilliputhur

3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai(2 copies).

+1 CC to M/s.A.SIVAJI, Advocate (SR-6098[F] dated 19/02/2021)

+1 CC to M/s.J.SENTHIL KUMAR, Advocate (SR-6128[F] dated 19/02/2021

Order made in
Tr.C.M.P(MD)No.179 of 2019
and
C.M.P(MD) No.4093 of 2019
18.02.2021

KUN(CO)
TR(22.03.2021) 3P 7C