



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD) No.275 of 2021
and
C.M.P. (MD) No.5800 of 2021

Amutha,
W/o.Gowri Shankar .. Petitioner/Respondent

-vs-

Gowri Shankar,
S/o.Natesan .. Respondent/Petitioner

Prayer :- Petition filed under Section 24 of Civil Procedure Code, 1908 to withdraw and transfer the H.M.O.P.No.20 of 2019 on the file of the learned Sub Court, Rasipuram, Namakkal to the learned Family Court at Tirunelveli, Tirunelveli District and decide the same in accordance with law.

For Petitioner : Mr.S.Sathya Chithambaram

For Respondent : Mr.G.Ramanathan

ORDER

This petition is filed seeking to transfer H.M.O.P.No.20 of 2019 on the file of Sub Court, Rasipuram to the Family Court at Tirunelveli. The transfer petition has been filed by the wife, who is the respondent in the proceedings before the Sub Court at Rasipuram.

2.The petitioner would contend that she and her brother had been abandoned by their parents on account of their penury and they were living in the Good Shepherd Orphanage Home. The petitioner had undergone a Diploma Course in Fashion Designing and Beauty Treatment and had come in contact with the respondent at Ambasamuthiram, Tirunelveli. The two had fallen in love and had ultimately entered into wedlock on 29.06.2015 at Egambareswarar Temple. The two have been blessed with a son Hari Saran, who is aged 5 years and is presently living with the petitioner. The



petitioner would contend that at the time of their marriage, the respondent/husband was working in a private company, which unfortunately was closed down and in order to eke out his living, the respondent had brought the petitioner to Tirunelveli and the two were living in a rented premises at Tirunelveli. The petitioner was working in a private beauty parlour and earning a meagre salary from and out of which, she is taking care of her son.

3.The respondent, in the guise of looking out for a job, left the petitioner and her son at Tirunelveli and moved to Namakkal, where he is leading an affluent life. While so, the respondent making wide allegations, had moved H.M.O.P.No.20 of 2019 on the file of Sub Court, Rasipuram seeking divorce.

4.The petitioner would submit that she is living in Tirunelveli and the distance between Tirunelveli and Rasipuram is over 400 kms. Further, her son, who is of a tender age, is entirely dependent on her and she would have to bring her son all the way to Rasipuram for attending the hearing. That apart, she has no male assistance to undertake such a travel. Therefore, she would seek to have the proceeding transferred from Sub Court, Rasipuram to the Family Court at Tirunelveli.

5.The respondent has been served and has entered appearance through counsel, who would contend that the proceedings are now pending before the Sub Court, Rasipuram, where there is no necessity for the petitioner to appear for every hearing whereas, in the case of the Family Court, Tirunelveli, the presence of the parties is must.

6.Heard the learned counsels and perused the materials.

7.It is no doubt true that before the Sub Court, Rasipuram, the presence of the parties for every hearing is not required. However, the parties will have to go to the Court to engage counsels, for finalizing the pleadings etc. That apart, the parties have to be physically present during the examination of witnesses and in case, such examinations extend over a period of time, it might cause a lot of hardship to the petitioner, who admittedly is a single parent, living and taking care of her son and has no other support. In these circumstances, this Court is of the view that the transfer petition has to be transferred to the Family Court, Tirunelveli, where the petitioner/respondent is residing and the Family Court, Tirunelveli has the jurisdiction to entertain the petition, in view of Section 19(ii) of the Hindu Marriage Act, 1955. Under these circumstances, this petition is ordered as prayed for. It is made clear that the presence of the



respondent herein may be dispensed with before the Family Court at Tirunelveli, except for adducing evidence. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

abr

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Sub Judge, Rasipuram, Namakkal.

2.The Judge, Family Court, Tirunelveli.

+1 CC to M/s.G.RAMANATHAN, Advocate (SR-33811[F] dated 09/11/2021)

Tr.C.M.P. (MD) No.275 of 2021

Dated: 08.11.2021

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