



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD) No.436 of 2021

and

C.M.P. (MD) No.8404 of 2021

M.Monika ... Petitioner/Respondent
-vs-
M.Jegadeesh ... Respondent/Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw H.M.O.P.No.12 of 2021 from the file of the Sub Court, Palani and transfer to Family Court of Trichy to try along with H.M.O.P.No.291 of 2021 and M.C.No.60 of 2021.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.H.Lakshmi Shankar

ORDER

The above application has been filed by the wife seeking transfer of the petition filed by the husband for divorce in H.M.O.P.No.12 of 2021 on the file of the Sub Court, Palani to the file of the Family Court, Trichy, to be tried along with H.M.O.P.No.291 of 2021 filed by the wife for restitution of conjugal rights and M.C.No.60 of 2021 filed by her seeking maintenance.

2.The facts in brief are as follows:-

The petitioner and the respondent had got married on 17.04.2019 at Palani. However, the relationship turned sour, since the respondent was constantly receiving instructions from his parents and by reason of which, he had started ill-treating the petitioner. Finally, things turned so bitter and the petitioner had to leave her matrimonial home and returned to her parental home at Trichy. Thereafter, the husband had filed H.M.O.P.No. 12 of 2021 on the file of the Sub Court, Palani, for divorce. Meanwhile, the petitioner had also filed the petition for restitution of conjugal rights before the Family Court, Trichy, in H.M.O.P.No.291 of 2021. Since the respondent/husband was not maintaining her, she was constrained to file M.C.No.60 of 2021 on the file of the Family Court, Trichy. In order to prosecute the proceedings at Palani, she may have to travel from Trichy to Palani, which not only



involves travel, but also requires the petitioner taking along with her another person. Being a lady, she cannot not travel alone. It is in these circumstances the transfer petition has been filed.

3.The respondent has entered appearance through counsel. Heard the learned counsel on either side and perused the records.

4.After going through the records and hearing the arguments, this Court is of the view that the petition in HMOP No.12 of 2021 pending on the file of the Sub Court at Palani, be transferred to the file of the Family Court, Trichy, taking into consideration the convenience of the respondent's wife. That apart, it is seen that the husband has not been maintaining the petitioner and she has been forced to file a petition seeking maintenance in M.C.No.60 of 2021.

5.In the above circumstances, the petition filed by the respondent/husband for divorce in H.M.O.P.No.12 of 2021 is withdrawn from the file Sub Court, Palani to the file of the Family Court at Trichy to be tried along with H.M.O.P.No.291 of 2021 and M.C.No.60 of 2021. However, the learned Judge shall endeavor to dispose of M.C.No.60 of 2021. It is also seen, in all the three petitions, the other two petitions are before the Family Court at Trichy. On transfer the learned Family Judge, Trichy, is directed to first dispose of M.C.No.60 of 2021. In case, the husband offers a reasonable maintenance to the wife and continues in paying it, then the Court shall proceed to hear the other two petitions namely H.M.O.P.Nos.12 and 291 of 2021.

6.With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Considering the fact that the matter is now transferred to the Family Court, Trichy, where the presence of the parties for ever hearing is very essential, the Family Court at Trichy shall not insist on the presence of the respondent, except for the sake of adducing evidence. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

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



To

1.The Judge,
Family Court
Trichy.

2.The Subordinate Judge,
Palani.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-39738[F]
dated 21/12/2021)

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