



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P.(MD) No.561 of 2021

and

C.M.P.(MD) No.10094 of 2021

Blessline Sampath Kumar ... Petitioner/Respondent/Wife

-vs-

R.Arul Bhagyaraj ... Respondent/Petitioner/Husband

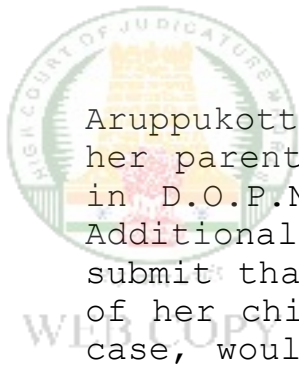
Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw D.O.P.No.254 of 2021 on the file of I Additional District Judge, Tirunelveli and transfer the same to the file of District Court, Madurai.

For Petitioner : Mr.P.Karthick
For Respondent : Mr.S.Jaffer Ali

ORDER

This petition is filed by the wife seeking transfer of the proceedings in D.O.P.No.254 of 2021 pending on the file of the I Additional District Judge, Tirunelveli to the file of the District Court, Madurai.

2.The petitioner's case is that she is a Doctor by profession and she had married the respondent at Madurai on 01.11.2017 and the marriage was an arranged marriage. She had been given adequate jewels and other traditional gifts befitting her status as well as that of her husband. The petitioner would submit that even though they had been married, the respondent would not financially support the petitioner's education as she was doing her post graduation course at Karaikal. It was her parents who were footing the bill. The respondent visited the petitioner at Karaikal and when she had requested the respondent to take her to the matrimonial home, he had refused the same under one pretext or other. Meanwhile, the petitioner had conceived and a son was born on 23.08.2018. The birth of the child also did not change the attitude of the respondent. The petitioner thereafter has been appointed as a Government Doctor in the Government Hospital at



Aruppukottai and she is taking care of her son with the help of her parents. In this background, she had received the petition in D.O.P.No. 254 of 2014 seeking Divorce, from the Court of I Additional District Judge, Tirunelveli. The petitioner would submit that apart from her profession, she also has to take care of her child and travelling to Tirunelveli for the hearing of the case, would be very difficult. The petitioner was also reluctant as her husband's family was from Tirunelveli and there was every chance of her being harassed there.

3.The respondent had entered appearance through counsel. The learned counsel would vehemently objected to the transfer stating that DOP is only before the District Court, which did not require the presence of the parties for every hearing. Further, he would contend that if the matter is transferred to Madurai, he fears for his very life as Madurai was the home down of the petitioner and her people are very powerful and influential persons in the locality. He would therefore request the Court to transfer the matter to any other court. However, the learned counsel has not been able to state as to which some other Court would have jurisdiction particularly when the marriage had taken place at Tirunelveli and the parties had last resided together at Karaikal and the petitioner is living at Madurai.

4.Heard the learned counsel on either side and perused the records.

5.From the affidavit and the pleading contained in the petition in DOP, it is seen that the parties have been living apart from August 2020. Further, the respondent herein is also not living in Tirunelveli, but is presently at Coimbatore, where he is undergoing his post graduate course. In the DOP the respondent has stated that he is not able to visit the child on account of his studying in post graduate course. Nowhere, does the respondent state that he has been maintaining his wife and his three years old son. Admittedly, the petitioner is residing at Madurai and travelling to Arupukottai where she is working as a Doctor in the Government Hospital at Aruppukkottai. Therefore, the Court at Madurai has jurisdiction to hear the DOP. The transfer would not in any way affect the respondent, since admittedly the respondent is also not living in Tirunelveli, but is at Coimbatore. Therefore, it would not matter to him whether he travels to Tirunelveli or to Madurai. In these circumstances, the submission made by the learned counsel for the respondent cannot be countenanced.

6.Therefore, the Transfer Civil Miscellaneous Petition is allowed and D.O.P.No.254 of 2021 pending on the file of the I Additional District Judge, Tirunelveli is withdrawn and



transferred to the file of the District Court, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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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 concerned.

To

1.The I Additional District Judge,
Tirunelveli.

2.The Principal District Judge,
Madurai.

+1 CC to M/s.P.KARTHICK, Advocate (SR-39199[F] dated 17/12/2021)

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and
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Dated: 16.12.2021

TSK(CO)

SB(19.01.2022) 3P 4C