



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD) Nos. 394, 397 and 477 of 2021

and

C.M.P. (MD) No.7765, 7795 & 8983 of 2021

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Tr.CMP. (MD)No.394 of 2021

P.Suresh ... Petitioner/Respondent
-vs-
K.Gayathri ... Respondent/Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the case in HMOP.No.184 of 2020 on the file of the District Judge, Family Court, Dindigul and to transfer the same to the III Additional Subordinate Court, Madurai.

For Petitioner : Mr.B.N.Raja Mohammed
For Respondent : No Appearance

Tr.CMP. (MD)No.397 of 2021

P.Suresh ... Petitioner/Respondent
-vs-
1.K.Gayathri
2.Minor.Harvitha ... Respondents/Petitioners

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the case in M.C.No.41 of 2020 on the file of the District Judge, Family Court, Dindigul and to transfer the same to the III Additional Subordinate Court, Madurai.

For Petitioner : Mr.B.N.Raja Mohammed
For Respondents : No Appearance

Tr.CMP. (MD)No.477 of 2021

K.Gayathri ... Petitioner
-vs-
P.Suresh ... Respondent

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw and transfer the HMOP.No.126 of 2020, which has been transferred from the file of Family Court, Cuddalore to the file of III-Additional Sub-Judge, Madurai to Family Court, Dindigul to try along with HMOP.No.184 of 2021 and M.C.No.41 of 2020.



For Petitioner : Mr.A.Chandrakumar
For Respondent : Mr.B.N.Raja Mohammed

COMMON ORDER

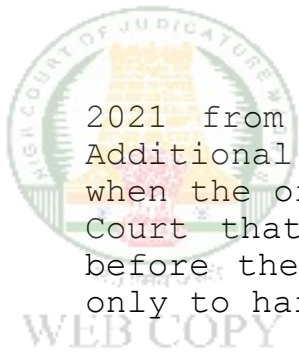
All the three transfer civil miscellaneous petitions are between the same parties who are husband and wife. The parties are therefore referred by their names.

2.TR.C.M.P(MD)No.394 of 2021 is filed by the Suresh, the husband, to transfer HMOP No.184 of 2021 filed by Gayathri, the wife, on the file of the learned District Judge, Family Court, Dindigul to the Third Additional Subordinate Court, Madurai. He has also filed TR.C.M.P.(MD)No.397 of 2021 seeking to withdraw M.C.No.184 of 2020 also pending on the file of the learned District Judge, Family Court, Dindigul to the file of the Third Additional Subordinate Court, Madurai. TR.C.M.P(MD) No. 477 of 2021 is filed by Gayathri to withdraw and transfer HMOP No.126 of 2020 pending on the file of the Third Additional Subordinate Court, Madurai to the Family Court, Dindigul to be tried along with HMOP No.184 of 2021 and M.C.No.41 of 2021.

3.The brief facts necessary to dispose of these transfer petitions, are as follows:-

(i) The marriage between Suresh and Gayathri took place on 06.11.2016 at Dindigul. After the marriage, they had set up of their matrimonial home at Cuddalore. Out of marriage, a daughter Haritha was born on 29.01.2018. The plea of Gayathri is that she had been subjected to cruelty and the in-laws, who were also living with the Suresh and Gayathri, were also instigating Suresh to ill-treat and harass her. Thereafter, they had set up separate family at Chennai. She would submit that Suresh was not discharging his duty as father and husband properly and was in fact not providing food for the two of them, which prompted the Gayathri to leave the matrimonial house and Suresh was responsible for the same.

(ii)Gayathri would submit that she had thereafter received the summons from the Family Court, Cuddalore in HMOP No. 126 of 2020 which was the petition for divorce filed by the Suresh. She thereafter filed HMOP No.184 of 2020 before the Family Court, Dindigul and also filed a petition for maintenance in MC No.41 of 2020 also before the Family Court, at Dindigul. Since the proceedings were initiated at Cuddalore, she had filed Tr.C.M.P.(MD) No.195 of 2020 to transfer HMOP No.126 of 2020 pending before the Family Court at Cuddalore to the file of the Family Court, Dindigul. Suresh the husband informed the Court that his life was under the threat and therefore, the HMOP should be transferred elsewhere and accordingly, it was decided to transfer HMOP No.126 of



2021 from the file of the Family Court, Cuddalore to the Third Additional Subordinate Judge, Madurai. Gayathri would submit that when the orders were passed it was not brought to the notice of this Court that the said Suresh was already attending two proceedings before the Family Court at Dindigul, the transfer to Madurai was only to harass her.

(iii)After the transfer of HMOP No.126 of 2020 to the Third Additional Subordinate Judge Madurai, Suresh had filed two application in TR.C.M.P(MD)No.394 and 397 of 2021 to transfer HMOP No.184 of 2020 and MC No. 41 of 2020 pending on the file of the Family Court, Dindigul, to the Third Additional Subordinate Judge, Madurai to be tried along with HMOP No.126 of 2020. Gayathri on her part sought to have HMOP No.126 of 2020 transferred to the file of the Family Court at Dindigul to be heard along with her other two petitions.

4.Heard the learned counsel appearing on either side and perused the record.

5.Admittedly, the husband is not paying any maintenance to the wife. She also has no independent source of income and she is entirely dependent on her parents for her every day expenses. The two proceedings initiated by Gayathri is pending on the file of the Family Court at Dindigul, for which, the husband is appearing. That apart, the Court at Madurai does not have any jurisdiction to entertain the petition for divorce and for maintenance. The marriage between the parties had taken place at Dindigul and they had last resided together at Cuddalore and Gayathiri, the wife, is residing at Dindigul. Therefore, the Court at Dindigul has the jurisdiction to entertain these petitions.

6.In view of the above, Tr.C.M.P.(MD) Nos.394 and 397 of 2021 stand dismissed and TR.C.M.P.(MD) No.447 of 2020 is allowed and the petition in HMOP No.126 of 2020 on the file of the Third Additional Subordinate Judge, Madurai, is withdrawn and transferred to the file of the Family Court, Dindigul. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

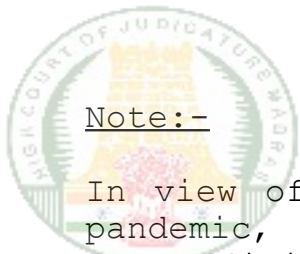
Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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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 III Additional Sub-Judge,
Madurai.

2.The District Judge,
Family Court,
Dindigul.

Tr.C.M.P. (MD) Nos.477, 394 &
397 of 2021

and

C.M.P. (MD) Nos.8983, 7795 &
7765 of 2021

Dated: 06.01.2022

KK (CO)

GC (09.02.2022) 4P 3C