



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD) No.327 of 2020
and
C.M.P. (MD) No.7305 of 2020

T.Dheepa ... Petitioner
-vs-
R.Thangakumaran ... Respondent

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw and transfer the original petition in HMOP.No.130 of 2020 on the file of the Family Court, Thanjavur and transfer the same to the file of the Principal Sub Court, Tenkasi.
(Prayer amended vide order dated 03.08.2021 made in CMP.(MD)No.3101 of 2021 in TR.CMP.(MD)No.327 of 2020)

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondent : Mr.P.Vadivel

ORDER

The petitioner/wife has filed the above transfer civil miscellaneous petition seeking to transfer the petition in HMOP No.130 of 2020 on the file of the Family Court, Thanjavur, to the file of the Principal Subordinate Court, Tenkasi.

2.It is the case of the petitioner that she married the respondent on 02.03.2015 and she was given 70 sovereign gold with a sum of Rs.1,00,000/- as sridhana. The marriage was also performed spending huge sums of money. The petitioner's contention is that her husband had pledged all her jewels for running his business and thereafter had started treating her with cruelty. Her husband was also an alcoholic and therefore, he would treat her cruelly under the influence of the liquor. The respondent would constantly demand money from the petitioner and her parents. Her father, brother and sister had extended huge sums of money to the respondent in the fond hope that the petitioner/wife would be treated well. The petitioner would submit that she had been forced to leave her matrimonial home leaving behind all her articles as well as her records on account of the cruelty inflicted on her. The respondent is refusing to return any of her article using these documents as a threat.



3.The petitioner would further submit that she has also filed domestic violence case in DVOP No.7 of 2019 on the file learned Judicial Magistrate, Senkottai. She has also filed a petition for divorce in HMOP No.160 of 2019 on the file of the Principal Subordinate Court, Tenkasi. She would submit that the respondent is highly influential in Thanjavur and further he has not been maintaining the petitioner in any fashion. Since the proceedings is before the Family Court, the petitioner has to appear for every hearing. This not only creates a lot of financial strain on the petitioner and her parents, but also immense emotional strain on the petitioner. She therefore seeks to have HMOP No.130 of 2020 transferred to the file of the Principal Sub Court, Tenkasi to be tried along with HMOP No.160 of 2019 pending on the file of the same court. The petitioner would submit that this petition has been filed by her husband for restitution of conjugal rights only as a counter blast to her petition for divorce.

4.Mr.T.S.Mohamed Mohideen, learned counsel appearing for the petitioner would reiterate the contentions made in the affidavit filed in support of the transfer petition.

5.The respondent counsel has not appeared before this Court when the matter was called. However, considering the fact that the transfer petition is of the year 2020 and since the petitioner had made out sufficient cause for seeking the transfer, I have proceeded to pass orders in the transfer civil miscellaneous petition in the absence of the counsel for the petitioner. Under Section 19 of the Hindu Marriage Act, the place of residence of the wife is also one of the Courts conferred with the jurisdiction to entertain an application for divorce. The respondent/husband who is not paying any maintenance cannot be allowed to make the petitioner/wife to travel to the Family Court, Thanjavur for every hearing.

6.Therefore, this Transfer Civil Miscellaneous Petition is allowed and the petition in HMOP No.130 of 2020 is withdrawn from the file of the Family Court, Thanjavur and transferred to the file of the Principal Subordinate Court, Tenkasi. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

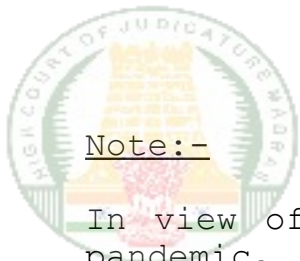
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Sub Assistant Registrar(CS)

cp

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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 Judge,
Family Court,
Thanjavur.
- 2.The Judge,
Principal Sub Court,
Tenkasi.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-131[F] dated 04/01/2022)

Tr.C.M.P. (MD) No.327 of 2020

and

C.M.P. (MD) No.7305 of 2020

Dated: 04.01.2022

MGJ(28.01.2022) 3P 4C