



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD) No.556 of 2021
and
C.M.P. (MD) No.10014 of 2021

Sankareswari ... Petitioner/Respondent
-vs-
Pandiarajan ... Respondent/Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the case in H.M.O.P.No.62 of 2021 from the file of the Principal Sub Court, Dindigul and transfer the same to the file of the Sub Court, Virudhunagar, for disposal of the same on merits in accordance with law.

For Petitioner : Mr.M.Kannan
For Respondent : Mr.Arjun

ORDER

The above petition is filed by the wife seeking to transfer the petition in H.M.O.P.No.62 of 2021 filed by the husband before the Principal Sub Court, Dindigul to the Sub Court at Virudhunagar.

2.The reason for seeking the transfer is that the petitioner had been driven out of the matrimonial home on account of the harassment that she had suffered at the hand of her in-laws and her husband who had demanded more dowry. The respondent had filed H.M.O.P.No.62 of 2021 for restitution of conjugal rights, but on the other hand, he had drafted out a divorce agreement on 17.06.2021 demanding that the same be signed by the petitioner herein. The petitioner would also submit that she has not been maintained by the respondent and on the contrary, it is her parents who are doing coolie work and maintaining her, since she is unemployed. In these circumstances, if she is directed to conduct the case at Dindigul, it would cause a lot of financial strain on her parents. Therefore, she would seek to have the petition transferred.

3.After service, the respondent had entered appearance through counsel and the learned counsel would vehemently oppose the petition stating that he has a life threat, if the matter is transferred to the Virudhunagar. He would submit that the petitioner had been set ex parte on 29.11.2021.



4.From the records, it is seen that the first hearing before this Court was on 29.11.2021 and on which date, the matter had been listed before this Court was adjourned to 01.12.2021. On 01.12.2021, this Court had granted stay of all further proceedings. Therefore, the petitioner was not in a position to file an application for setting aside the *ex parte* order, however *ex parte* evidence is yet to be taken.

5.Considering the above, this Transfer Civil Miscellaneous Petition is allowed as prayed for. However, the petitioner shall first file an application for setting aside the *ex parte* order before the Principal Sub Court, Dindigul, who shall on receipt of the application allow the same and thereafter, transfer the petition in H.M.O.P.No.62 of 2021 to the file of the Sub Court at Virudhunagar. The petitioner shall file the petition for setting aside the *ex parte* order within a period of 15 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

To

1. The Principal Subordinate Judge,
Dindigul.

2.The Subordinate Judge,
Virudhunagar.

+1 CC to M/s.M.KANNAN, Advocate (SR-1873[F] dated 20/01/2022)

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.

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NSN(CO)

KB(09.02.2022) 2P 4C