



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.03.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.169 of 2015

and

M.P (MD) No.1 of 2015

WEB COPY

M.Krishna Veni

.. Petitioner

Vs.

K.Nanda Kumar

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the H.M.O.P.No.19 of 2015, on the file of Sub Court, Theni to the file of Sub Court, Usilampatti.

For Petitioner : Mr.K.Marimuthu

For Respondent : Mr.Veerakathiravan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.19 of 2015, on the file of the Sub Court, Theni and transfer the same to the file of Sub Court, Usilampatti.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 01.09.2011. After the marriage, both were living together in the matrimonial home at Theni. A male child was born in the wedlock on 26.06.2012. Due to some dispute, the petitioner is residing at her village of Peraiyur Taluk, Madurai District. While so, the respondent filed H.M.O.P.No.19 of 2015 before the Sub Court, Theni, for divorce.

3.Now, the petitioner is residing with her parents at Peraiyur Taluk, Madurai District. She is not having any independent income and she is depending on her parents for her day-to-day expenses, including the travel expenses. The petitioner being a lady finds it very difficult to attend the hearing in the Court at Theni without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Theni. Therefore, she prayed for transfer H.M.O.P.No.19 of 2015 on the file of the Sub Court, Theni to Sub Court, Usilampatti.

4.The learned counsel for the petitioner submitted that after filing the transfer petition, the petitioner also filed H.M.O.P.No.271 of 2015 before the Sub Court, Thirumangalam, for restoration of conjugal rights. This Court, by the order dated, 24.07.2015 referred the matter to the Mediation and Conciliation

Centre attached to this Bench for settlement, but the Mediation could not succeed.

5. The learned counsel for the respondent submitted that the distance from the petitioner's Village to Sub Court, Thirumangalam and to Sub Court, Theni is one and the same and therefore, it will not be difficult for her to attend the proceedings before the Sub Court, Theni.

6. I have heard the learned counsel appearing for the petitioner and the respondent and also perused the entire materials on record.

7. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008(9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)** and **AIR 2002 SC 396 (Sumita Singh Vs. Kumar Sanjay and another)**. In the present case, the petitioner has given valid reason for transferring the HMOP filed by the respondent and for hearing the same together in order to avoid conflicting decisions.

8. Accordingly, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.19 of 2015, on the file of the Sub Court, Theni, is hereby withdrawn and transferred to the file of the Sub Court, Thirumangalam, to be tried along with H.M.O.P.No.271 of 2015, if the same is not yet disposed of. The learned Sub Judge, Theni, is directed to send the case bundles to the Sub Court, Thirumangalam, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Theni.

2. The Subordinate Judge,
Thirumangalam.

+One CC to M/s.K.Abiya Advocate in Sr.No.14833

+One CC to M/s.Veera.Kathiravan, Advocate in Sr.No.14582

CN/JGB-DP/AR1/28.03.2016/2P-5C

<https://hcservices.ecourts.gov.in/hcservices/>

TR.C.M.P(MD)No.169 of 2015