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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.170 of 2015

and M.P(MD)No.1 of 2015

Sujatha ... Petitioner

Vs.

Senthil Kumar ... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.76 of 2014 pending on the file of the Additional Sub Court, Nagapattinam and transfer the same to be tried along with H.M.O.P.No.152 of 2014 on the file of the Sub Court, Thanjavur for joint trial.

For Petitioner : Mr.S.Srinivasa Raghavan

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.76 of 2014 on the file of the Additional Sub Court, Nagapattinam and transfer the same to the Sub Court, Thanjavur to be tried along with H.M.O.P.No.152 of 2014.

2.The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 17.06.2007 and they were blessed with a male child on 07.06.2008. Due to some dispute, the petitioner was driven out from the matrimonial home. Whileso, the respondent filed a petition in H.M.O.P.No.76 of 2014 for divorce by making various false allegations. At present, the petitioner and her son are living with her aged parents at Thanjavur. The petitioner filed a case in H.M.O.P.No.152 of 2014 before the Sub Court, Thanjavur. Therefore, it is very difficult for her to travel each and every hearing to attend the case in H.M.O.P.No.76 of 2014 on the file of the Additional Sub Court, Nagapattinam. The petitioner is depending on her parents for day to day expenses including travel expenses. Therefore, she has come out with the present petition for transfer.

3.In view of the submission made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both H.M.O.P.No.76 of 2014 and H.M.O.P.No.152 of 2014 are to be tried together in the same Court.

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4.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)***. Therefore, it will be in the interest of justice, in order to avoid conflicting decisions, the petition filed by the wife is liable to be allowed.

5.Considering the facts and circumstances of the case, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.76 of 2014 on the file of the Additional Sub Court, Nagapattinam, is hereby withdrawn and transferred to the file of the Sub Court, Thanjavur to be tried along with H.M.O.P.No.152 of 2014 filed by the petitioner. The learned Additional Sub Judge, Nagapattinam, is hereby directed to send the case bundles in H.M.O.P.No.76 of 2014 immediately, to the Sub Court, Thanjavur. No costs. Consequently, M.P.is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Subordinate Judge, Nagapattinam.
2.The Subordinate Judge, Thanjavur.

+1cc to Mr.S.Srinivasa Raghavan, Advocate Sr.No.11204

akm/09.03.2016/2p-4c/AAL/MPA/SAR-I

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