



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.213 of 2015
and
C.M.P(MD)No.1 of 2015

Menaka

... Petitioner

Vs.

Rajesh

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.226 of 2014 on the file of the Sub Court, Sivakasi and the same may be transferred to the Sub Court, Kulithalai, Karur District.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondent : Mr.V.Ilanchezian

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.226 of 2014 on the file of the Sub Court, Sivakasi and transfer the same to the Sub Court, Kulithalai, Karur District.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 23.05.2012. They were blessed with one female child in the wedlock. Due to dispute, the petitioner left the matrimonial home. Thereafter, she filed a petition in M.C.No.1 of 2015 before the Judicial Magistrate No.I, Kulithalai. On receiving notice, the respondent/husband filed a petition in H.M.O.P.No.226 of 2014 on the file of the Sub Court, Sivakasi for restitution of conjugal rights. The petitioner along with her child is now residing with her parents at Kulithalai. The distance between Kulithalai and Sivakasi is about 226 kms and it is very difficult for the petitioner to travel each and every hearing to attend the case in H.M.O.P.No.226 of 2014 on the file of the Sub Court, Sivakasi. The petitioner is depending on her parents for her day-to-day expenses including travelling expenses. She has also stated that it will not be difficult for the respondent / husband to attend the hearing at Sub Court, Kulithalai. Therefore, she has come out with the present petition for transfer.

3.The learned counsel for the respondent submitted that the respondent is residing at Vembakkottai, Sivakasi Taluk, Virudhunagar District and it will be difficult for him to attend the hearing at Sub Court, Kulithalai.



4. Heard both sides.

5. 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, I am of the view that the petition filed by the wife is liable to be allowed.

6. Considering the facts and circumstances, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.226 of 2014 on the file of the Sub Court, Sivakasi is hereby withdrawn and transferred to the file of the Sub Court, Kulithalai, if the same is not yet disposed of. The learned Sub Judge, Sivakasi is directed to send the case bundles in H.M.O.P.No.226 of 2014 to the Sub Court, Kulithalai immediately. The Registry is directed to send back the papers that are pending before the Registry. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Court, Sivakasi.
2. The Judicial Magistrate No.I, Kulithalai.
3. The Sub Court, Kulithalai
4. The Section Officer, VR&ER Section, MBMHC, Madurai.

+1cc to Mr.V.Illanchezian, Advocate CC SR NO: 23035

+1cc to Mr.P.T.Ramesh raj Advocate CC SR.No. 22207

Tr.C.M.P. (MD) No.213 of 2015

nbg

JA/SKS-RR/SAR-I/03.06.2016/2P-7C