



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.04.2016

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.298 of 2015 and MP(MD)No.1 of 2015

Umamaheswari .. Petitioner /Respondent

Vs.

Thiruppathi .. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in H.M.O.P.No.137 of 2015 on the file of Sub-ordinate Judge, Pudukkottai and Transfer the same to the Sub-ordinate Judge, Karur.

For Petitioner : Mr.RMS.Sethuraman
For Respondent : Mr.K.N.Govardhanan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.137 of 2015, on the file of Sub Court, Pudukkottai and transfer the same to the file of Sub Court, Karur.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.02.2014 as per Hindu Rites and Customs. Due to the dispute, the petitioner went to parents house. In the circumstances, a female child was born 01.05.2015. Even after delivery of female child, the respondent did not come and see the petitioner and her child. Thereafter, the respondent filed H.M.O.P.No.137 of 2015 for Restitution of Conjugal Rights before the Sub Court, Pudukkottai.

3.According to the petitioner, she is residing at Kamaraj Road, Nathan Complex, Karur. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travel expenses. The distance between Karur and Pudukkottai is more than 120 kms. She finds it very difficult to travel from Karur to Pudukkottai. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Karur and therefore, the petitioner/wife filed this petition to transfer the aforesaid H.M.O.P.No.137 of 2015 filed by the respondent/Husband before the Sub Court, Pudukkottai to the file of the Sub Court, Karur.



4. The learned counsel appearing for the respondent submitted that the respondent is a Government servant and it is very difficult for him to travel from Pudukkottai to Karur and prayed for dismissal of the Transfer Civil Revision Petition.

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

6. 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.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.137 of 2015 on the file of the Sub Court, Pudukkottai, is hereby withdrawn and transferred to the file of the Sub Court, Karur, if the same is not yet disposed of. The learned Sub Judge, Pudukkottai, is directed to send the case bundles to the Sub Court, Karur, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, MP(MD)No.1 of 2015 is also closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1. The Subordinate Judge, Pudukkottai.

2. The Subordinate Judge, Karur.

+One cc to M/s.K.N.Govardhanan, Advocate, SR.No.21886

+One cc to M/s.RMS.Sethuraman, Advocate, SR.No.21508

Copy to : The Section officer, V.R.Section,

Madurai Bench of Madras High Court, Madurai

am

RL/6c/2p/AN/MP/6/5/2016

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