



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.02.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.305 of 2015

and

M.P (MD) No.1 of 2015

B.Nalini

.. Petitioner

Vs.

S.B.Yogesh

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the O.P.No.1541 of 2014 pending on the file of the Family Court at Chennai to any other competent Court at Madurai pending disposal of the above Transfer Civil Miscellaneous Petition.

For Petitioner : Mr.K.Samidurai

For Respondent : No appearance

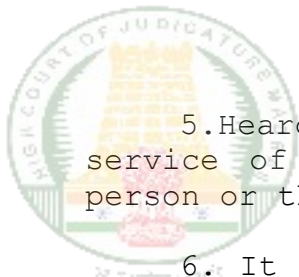
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in OP No.1541 of 2014, on the file of the Second Additional Family Court at Chennai and transfer the same to any other competent Court at Madurai.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 15.04.2011 as per the Special Marriage Act. Both the petitioner and the respondent were residing together in the matrimonial home at Chennai. Due to difference of opinion, the respondent thrown her out from matrimonial home and now the petitioner is at her mother's house at Madurai. The respondent filed O.P.No.1541 of 2014 before the Second Additional Family Court, Chennai, for divorce.

3.The petitioner is residing at Madurai along with her aged mother. According to her, the distance between Madurai and Chennai is more than 500 kms and being a lady, it is very difficult for her to attend each and every hearing before the II Additional Family Court, Chennai. She is not having any independent income and she is depending on her mother for her day-to-day expenses including travel expenses.

4.Now, the petitioner/wife filed this petition to transfer the aforesaid OP No.1541 of 2014 filed by the respondent/Husband before the Second Additional Family Court, Chennai, to any other competent Court at Madurai.



5. Heard the learned counsel appearing for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through pleader.

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 O.P.No.1541 of 2014 on the file of the Second Additional Family Court, Chennai, is hereby withdrawn and transferred to the file of the Sub Court, Madurai. The learned Second Additional Family Judge, Chennai, is directed to send the case bundles to the Sub Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Chennai.
2. The Subordinate Judge, Madurai.

+ 1 CC TO MR.K.SAMIDURAI, ADVOCATE IN SR NO. 11061/16

AM

TE/JGB-DP/SAR-I : 16/03/2016 : 2P/4C

TR.C.M.P (MD) No. 305 of 2015
and
M.P (MD) No. 1 of 2015
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