



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANITr.C.M.P(MD)No.373 of 2015 and
M.P(MD)No.1 of 2015S. Kavitha ... Petitioner
Vs.

A. Marish ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the case in HMOP.No.74 of 2015 from the file of the Sub Court, Ambasamudram to Sub Court, Kovilpatti.

For Petitioner : Mr.R. Manimaran

For Respondent : Mr. S. Siva Ilayaraja

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in HMOP.No.74 of 2015 from the file of the Sub Court, Ambasamudram to Sub Court, Kovilpatti.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 20.11.2014 as per Hindu Rites and customs. At the time of marriage, 60 sovereigns of gold jewels and a sum of Rs.1,00,000/- were given as dowry to the respondent. From the date of marriage, the respondent tortured the petitioner physically and mentally. Hence, she gave a complaint before the All Women Police Station, Kovilpatti and thereafter, she filed a petition under Section 12 of Domestic Violence Act. She has also filed a petition in M.C.No.5 of 2015, on the file of the learned Judicial Magistrate No.1, Kovilpatti, for maintenance and the same is pending. While so, the respondent filed HMOP.No.74 of 2015 before the Sub Court, Ambasamudram, for restitution of conjugal rights, making false allegations.

3. Now, the petitioner is staying with her age old parents at Kazhugumalai. The distance between Kazhugumalai and Ambasamudram is about 150 kms and it is very difficult for the petitioner to travel each and every hearing to attend H.M.O.P.No.74 of 2015, before the Sub Court, Ambasamudram. Further, the petitioner is not having any independent income and she is only depending on her parents for her day-to-day expenses, including the travel expenses.



4. In such circumstances, the petitioner has filed this petition to transfer the aforesaid HMOP No.74 of 2015, filed by the respondent, from the Sub Court, Ambasamudram to Sub Court, Kovilpatti.

5. The respondent though entered appearance through his counsel, he did not file any counter.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

8. Accordingly, the Transfer CMP is allowed and the HMOP No.74 of 2015 pending on the file of the Sub Court, Ambasamudram, is ordered to be withdrawn and transferred to the file of the Sub Court, Kovilpatti. The learned Subordinate Judge, Ambasamudram, is directed to transmit the entire records pertaining to the case in HMOP No.74 of 2015 to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. The Registry is also directed to send back the papers that are pending before the Registry. No costs.

Sd/-
Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To
1. The Subordinate Judge, Ambasamudram
2. The Subordinate Judge, Kovilpatti.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.

(For transmitting the case papers to Subordinate Court, Kovilpatti)

+1 CC to Mr.M.SELVAKUMAR, Advocate, SR No.9643

Tr.C.M.P (MD) No.373 of 2015 and
M.P (MD) No.1 of 2015
18.02.2016

trp

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