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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :**11.03.2016**
CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.375 of 2015
and
M.P(MD)No.1 of 2015

Petchiammal .. Petitioner

Vs.

Sivakumar .. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.70 of 2015 pending before the Sub Court, Theni and transfer the same to Family Court, Tirunelveli or any competent Court.

For Petitioner : Mr.P.T.Thiraviam

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.70 of 2015, on the file of the Sub Court, Theni and transfer the same to the file of Family Court, Tirunelveli or any competent Court.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 24.05.2002. After the marriage, both were living together at matrimonial home. Three children were born in the wedlock. Due to some dispute, the respondent driven out the petitioner from the matrimonial home and filed H.M.O.P.No.70 of 2015 before the Sub Court, Theni, for divorce.

3.Now, the petitioner is residing with her parents at Thalaiyuthu, Tirunelveli District. The distance between Tirunelveli and Theni is more than 150 kms. She is not having any independent income and she is depending on her parents for her day-to-day expenses including the travelling expenses. The petitioner, being a lady, finds it very difficult to travel from Tirunelveli to Theni to attend the hearing in the Court at Theni, without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Tirunelveli.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid HMOP No.70 of 2015, filed by the respondent/husband, before the Sub Court, Theni, to Family Court, Tirunelveli.

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5.Heard the learned counsel appearing for the petitioner. Though notice was served on the respondent and his name is printed in the cause list, he has not chosen to appear either in person or through counsel.

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.70 of 2015 on the file of the Sub Court, Theni, is hereby withdrawn and transferred to the file of the Family Court, Tirunelveli. The learned Sub Judge, Theni, is directed to send the case bundles to the Family Court, Tirunelveli, 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 (AE)

/True Copy/

Sub Assistant Registrar

To
1.The Subordinate Judge,
Theni.

2. The Judge,
The Family Court,
Tirunelveli.

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