



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.03.2016

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.377 of 2015

and

M.P(MD)No.1 of 2015

Anandhasuba

.. Petitioner /Respondent

Vs.

P.Pothiraj

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.130 of 2015, on the file of the Sub Court, Srivilliputhur and transfer the same to the III Sub Court, Madurai and direct the III Sub Court, Madurai to dispose the H.M.O.P.No.130 of 2015 within the time specified.

For Petitioner : Mr.R.Meenakumari

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.130 of 2015, on the file of Sub Court, Srivilliputhur and transfer the same to the file of III Sub Court, Madurai and direct the III Sub Court, Madurai to dispose the H.M.O.P.No.130 of 2015 with the time specified.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 28.03.2007. After the marriage, both were living together in the matrimonial home at Coimbatore. A male child was born in the wedlock. Subsequently, the minor child affected Autism Spectrum Disorder. Due to that, there was a quarrel between the petitioner and the respondent. The petitioner gave a complaint before the Inspector of Police, All Women Police Station, Pothanur. While so, the respondent filed H.M.O.P.No.130 of 2015 on the file of the Sub Court, Srivilliputhur, for divorce.

3.According to the petitioner, she is not having parents and she is residing at Thirupalai with her brothers help. She is not having any independent income and she is depending on her brother for her day-to-day expenses including travel expenses. The distance between Madurai and Srivilliputhur is more than 80 kms. She finds it very difficult to travel from Madurai to Srivilliputhur along with her Autism child without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Madurai.



4. Now, the petitioner/wife filed this petition to transfer the aforesaid H.M.O.P.No.130 of 2015 filed by the respondent/Husband before the Sub Court, Srivilliputhur to the file of the III Sub Court, Madurai.

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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.130 of 2015 on the file of the Sub Court, Srivilliputhur, is hereby withdrawn and transferred to the file of the IIIrd Additional Sub Court, Madurai. The learned Sub Judge, Srivilliputhur, is directed to send the case bundles to the IIIrd Additional 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(RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The Subordinate Judge, Srivilliputhur
 2. The IIIrd Additional Subordinate Judge, Madurai.
 3. The Section Officer, V.R. Section,
Madurai Bench of Madras High Court,
Madurai
- +One cc to M/s.R.Meenakumari, Advocate, SR.No.15465

am

RL/5C/2P/GSV/PM/1/4/2016

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MP(MD)No.1 of 2015

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