



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.387 of 2015

and

M.P(MD)No.1 of 2015

S.Vinotha

... Petitioner/Respondent

Vs.

R.Jaganathan

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to transfer the proceedings in I.A.No.470 of 2015 in H.M.O.P.CFR No.5126 of 2015 on the file of the Principal Subordinate Judge, Tirupur to the file of Subordinate Judge, Uthamapalayam to try along with H.M.O.P.No.130 of 2015.

For Petitioner

: Mr.G.Vanjinathan

O R D E R

The Transfer Civil Miscellaneous Petition is filed to transfer the proceedings in I.A.No.470 of 2015 in H.M.O.P.CFR No.5126 of 2015 from the file of the Principal Subordinate Judge, Tirupur to the file of Subordinate Judge, Uthamapalayam to try along with H.M.O.P.No.130 of 2015.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 27.11.2014. Due to some dispute, the petitioner left the matrimonial home. Whiles, the respondent / husband filed a petition in H.M.O.P.C.Fr.No.5126 of 2015 along with a leave application in I.A.No.470 of 2015 to permit the respondent herein to file H.M.O.P. petition before the lapse of one year from the date of marriage before the Principal Sub Court, Tirupur. The petitioner filed a petition in H.M.O.P.No.130 of 2015 before the Sub Court, Uthamapalayam for restitution of conjugal rights and the same is pending. The petitioner is now residing with her parents at Theni. The distance between Theni and Thirupur is about 300 kms and it is very difficult for the petitioner to travel each and every hearing to attend the case in H.M.O.P.C.Fr.No.5126 of 2015 at Tirupur. The petitioner is depending on her parents for her day-to-day expenses including travelling expenses. She has also stated that it will not be difficult for the respondent / husband to attend the hearing



at Sub Court, Uthamapalayam. Therefore, she has come out with the present petition for transfer.

3. 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.

4. 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)** and to avoid conflicting decisions, both I.A.No.470 of 2015 in H.M.O.P.C.FR.No.5126 of 2015 and H.M.O.P.No.130 of 2015 are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

5. Considering the facts and circumstances, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.C.FR.No.5126 of 2015 on the file of the Principal Sub Court, Tirupur is hereby withdrawn and transferred to the file of the Subordinate Judge, Uthamapalayam to be tried along with H.M.O.P.No.130 of 2015, if the same is not yet disposed of. The learned Principal Sub Judge, Tirupur is directed to send the case bundles in H.M.O.P.C.FR.No.5126 of 2015 along with a leave application in I.A.No.470 of 2015 to the Subordinate Court, Uthamapalayam, immediately. The Registry is directed to send back the papers that are pending before the Registry. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(W)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Principal Subordinate, Tirupur.

2. The Subordinate Judge, Uthamapalayam.

+1cc to M/S.G.Vanjinathan, Advocate in SR.No.22338

Copy to:

The Section Officer,
Criminal Section,

Madurai Bench of Madras High Court, Madurai.

Tr.C.M.P. (MD) No.387 of 2015

21.04.2016