



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.389 of 2015****and****M.P(MD)No.1 of 2015**

R.Kavitha

.. Petitioner /Respondent

Vs.

K.Rameshvel

.. Respondent / Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer H.M.O.P.No.9 of 2014, on the file of Sub Court, Kulithalai to Sub Court, Tanjore and try along with H.M.O.P.No.59 fo 2014.

For Petitioner : Mr.G.Rajaraman

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.9 of 2014, on the file of the Sub Court, Kulithalai and transfer the same to the Sub Court, Tanjore and to be heard along with HMOP No.59 of 2014 on the file of Sub Judge, Tanjore.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 16.06.2006. After the marriage, both were living together in the matrimonial home at Kulithalai and subsequently at Tirupur. A female child was born in the wedlock, in the year 2007. Due to the complaint given by third party, the respondent lost his job at Tirupur. Therefore, they shifted their residence to Kulithalai, in the year 2012. The respondent used to pick-up quarrel and ill-treated the petitioner. In the year 2013, father-in-law of the petitioner was died and due to the ill-advise of the respondent's mother, the respondent left the petitioner at her parents house on 25.11.2013. Thereafter, the respondent filed H.M.O.P.No.9 of 2014, on the file of the Sub Court, Kulithalai, for divorce. The petitioner filed H.M.O.P.No.59 of 2014, before the Sub Court, Tanjore for Restitution of Conjugal Rights.

3.According to the petitioner, she is residing at Tanjore with her parents along with her child and she is working as a Coolie for her livelihood and to help her old age mother. She finds it very difficult to travel from Tanjore to Kulithalai along with her child without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Tanjore.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid H.M.O.P.No.9 of 2014, filed by the respondent/husband, before the Sub Court, Kulithalai, to Sub Court,



Tanjore to be tried along with HMOP.No.59 of 2014.

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.

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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)**. In the present case, the petitioner has given valid reason for transferring the H.M.O.P.No.9 of 2014 filed by the respondent and for hearing the same together in order to avoid conflicting decisions.

7. For the above reasons, the transfer civil miscellaneous Petition is allowed and H.M.O.P.No.9 of 2014 on the file of the Sub Court, Kulithalai, is hereby withdrawn and transferred to the file of the Sub Court, Tanjore to be tried along with H.M.O.P.No.59 of 2014, if the same is not yet disposed of. The learned Sub Judge, Kulithalai, is directed to send the case bundles to the Sub Court, Tanjore, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed. 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, Kulithalai.

2. The Subordinate Judge, Tanjore.

+1 CC to Mr.G.Rajaraman, Advocate, SR No.15560

TR.C.M.P(MD)No.389 of 2015 and
M.P(MD)No.1 of 2015
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