



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.03.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.404 of 2015

and

M.P (MD) No.1 of 2015

R.Kavitha

.. Petitioner / Respondents

Vs.

R.Palanivel

.. Respondent / Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the above H.M.O.P.No.79 of 2015, on the file of the Subordinate Court, Devakottai to the Family Court, Madurai or any other competent Civil Court within the jurisdiction of Madurai.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.79 of 2015, on the file of Sub Court, Devakottai and transfer the same to the file of Family Court, Madurai or any other competent Civil Court within the jurisdiction of Madurai.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 01.02.2007. After the marriage, both were living together in the matrimonial home at Devakottai. A male child was born in the wedlock. Due to some misunderstanding, both were living separately. The petitioner is residing at Madurai along with her aged parents. The petitioner filed maintenance case in M.C.No.87 of 2015 before the Mahila Court, Madurai. Even after receiving the notice from the Mahila Court, Madurai, the respondent did not appear before the said Court and the same was periodically adjourned. On receiving summons from the Mahila Court, he has filed H.M.O.P.No.79 of 2015 before the Sub Court, Devakottai, for divorce.

3.Now, the petitioner is residing with her aged parents along with her child at Thiruppalai, Madurai District. She is not having any independent income and she is depending on her parents for her day-to-day expenses including the travel expenses. She finds it very difficult to attend each and every hearing at Devakottai, 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.In such circumstances, the petitioner filed this petition to transfer the aforesaid H.M.O.P.No.79 of 2015, filed by the respondent/husband, before the Sub Court, Devakottai, to Family Court, Madurai.



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.79 of 2015 on the file of the Sub Court, Devakottai, is hereby withdrawn and transferred to the file of the Family Court, Madurai. The learned Sub Judge, Devakottai, is directed to send the case bundles to the Family 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 (P&A)

/True copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Devakottai.

2.The Judge,

The Family Court, Madurai.

Copy to:

The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.D.Shanmugaraja Sethupathi, Advocate, SR No.15638

TR.C.M.P (MD) No.404 of 2015

18.03.2016

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SH/SK-SKN:31.03.2016:2P/5C