



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.407 of 2015

and

M.P(MD)No.1 of 2015

Muthulakshmi @ Manju

.. Petitioner

Vs.

Swaminathan

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the H.M.O.P.No.140 of 2015, on the file of the Principal Sub Court, Mayiladuthurai to the Family Court, Tirunelveli District.

For Petitioner : Mr.M.Sankar

For Respondent : Mr.P.T.Ramesh raja

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.140 of 2015, on the file of the Principal Sub Court, Mayiladuthurai and transfer the same to the file of Family Court, Tirunelveli District.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 24.03.2008 as per Hindu Rites and Customs. After the marriage, both were living together in the matrimonial home at respondent's house. Due to dispute, both of them were living separately. The respondent and his family members tortured the petitioner by demanding dowry and thrown her out from the matrimonial home. The petitioner is residing at her parents house. While so, the respondent filed H.M.O.P.No.140 of 2015, before the Principal Sub Court, Mayiladuthurai, seeking for divorce, making false allegations.

3.According to the petitioner, she is residing at Tirunelveli with her parents. The distance between the Tirunelveli and Mayiladuthurai is more than 450 kms. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travel expenses. She finds it very difficult to attend each and every hearing in the Court at Mayiladuthurai without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Tirunelveli. Therefore, she prayed for transfer HMOP No.140 of 2015, from the file of the Principal Sub Court, Mayiladuthurai to the file of the Family Court, Tirunelveli.



4.I have heard the learned counsel appearing for the petitioner and the respondent and also perused entire materials on record.

5.The learned counsel appearing for the respondent submitted that the respondent is a Archekar and doing poojas in the temple daily and it will be difficult for him to appear before the Family Court, Tirunelveli for each and every hearing but in the Sub Court, appearance of the parties, need not be necessary.

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.Considering the submission of the learned counsel for the respondent and also considering the fact that the petitioner is a Archekar in the Temple, this Transfer Civil Miscellaneous Petition is disposed of and H.M.O.P.No.140 of 2015, on the file of the Principal Sub Court, Mayiladuthurai, is hereby withdrawn and transferred to the file of the Principal Sub Court, Tirunelveli. The learned Principal Sub Judge, Mayiladuthurai is directed to send the case bundles to the Principal Sub 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 (RTI)

/True copy/

Sub Assistant Registrar

To

1.The Principal Sub Court, Mayiladuthurai.

2.The Principal Sub Court, Tirunelveli.

Copy to:

The Section Officer,
VR Section / Record
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.RAMESH RAJA, Advocate, SR No.15783

+1 CC to M/s.M.SANKAR, Advocate, SR No.15609

TR.C.M.P (MD) No.407 of 2015
18.03.2016

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