



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.03.2016**

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.412 of 2015

and

M.P (MD) No.1 of 2015

P.Sahana

.. Petitioner

Vs.

M.Pandiarajan

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.161 of 2014, pending on the file of the Sub Judge, Theni and transfer the same to the Sub Court, Salem or any other competent Court at Salem within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

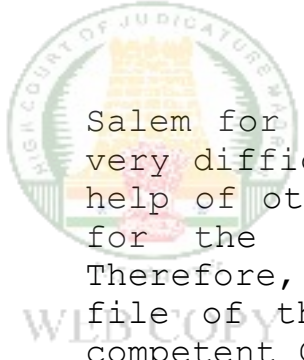
For Respondent : Mr.P.R.Prithiviraj

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.161 of 2014, pending on the file of the Sub Court, Theni and transfer the same to the Sub Court, Salem or any other competent Court at Salem, within the time stipulated by this Court.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 02.09.2011 as per Hindu Rites and Customs. After the marriage, both were living together in the matrimonial home at Chennai. A female child was born in the wedlock. Due to some dispute, the petitioner gave a complaint before the Assistant Commissioner of Police, St. Thomas Mount Range, Chennai. The respondent filed H.M.O.P.No.161 of 2014 before the Sub Court, Theni.

3.According to the petitioner, she is residing at Mettur Dam-I with her parents along with her child. She is not having any independent income and she is depending on her parents for her day-to-day expenses, including the travelling expenses. The distance between the Mettur Dam and Theni is more than 300 kms. At the time of marriage, the petitioner has completed DECE and now joined B.E., (ECE) at Vinayaga Mission's Engineering College at



Salem for further studies. The petitioner, being a lady, finds it very difficult to attend the hearing in the Court at Theni without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Theni. Therefore, she prayed for transfer H.M.O.P.No.161 of 2014 on the file of the Sub Court, Theni to Sub Court, Salem or any other competent Court at Salem.

4. Heard the learned counsel appearing for the petitioner and the respondent.

5. 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.

6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.161 of 2014, on the file of the Sub Court, Theni, is hereby withdrawn and transferred to the file of the Sub Court, Salem. The learned Sub Judge, Theni, is directed to send the case bundles to the Sub Court, Salem, 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

/True copy/

Sub Assistant Registrar

To

1. The Sub Court, Theni.
2. The Sub Court, Salem.
3. The section officer, Judicial Section,
Madurai Bench of Madras High Court, Madurai.
4. The Section officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.Malaikani, Advocate in SR.No.17945
+1cc to Mr.P.R.Prithiviraj, Advocate in SR.No.18108/16

SDR/SKS-RR/27.04.2016/2P/7C