



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.03.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.459 of 2015

and

M.P(MD)No.1 of 2015

M.C.Anitta

.. Petitioner

Vs.

M.Antony Arun Raja

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the I.D.O.P.No.134 of 2015 from the file of the Family Court, Tirunelveli and transfer the same to the file of Family Court, Tuticorin.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.S.Meenakshi Sundaram
for T.Selvan

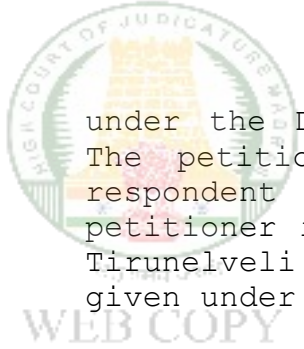
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in I.D.O.P.No.134 of 2015, on the file of the Family Court, Tirunelveli and transfer the same to the file of Family Court, Tuticorin.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 27.12.2010. A male child was born in the wedlock on 05.12.2011. Due to some misunderstanding, the respondent driven out the petitioner from the matrimonial home and she is residing with her parents along with her child. While so, the respondent filed I.D.O.P.No.134 of 2015 before the Family Court, Tirunelveli, for divorce.

3.According to the petitioner, she is doing her Junior Research Fellow (DST Project) in Suganthi Devadason Marine Research Institution at Tuticorin. She is maintaining her day-to-day expenses with the paltry sum given as stiftund and she is depending on her parents for her livelihood and maintaining her child. Therefore, she is not in a position to take leave for attending the case, every hearing. According to the petitioner, her child is under the custody of her parents at Thisayanvilai. In the circumstances, it is very difficult for her to travel from Tuticorin to Tirunelveli to attend the Court proceedings.

4.The respondent filed counter affidavit and typed set of papers and denying the averments made by the petitioner. According to the respondent, the petitioner is not residing at Tuticorin and he has filed the typed set of papers to show that she is residing at Thisayanvilai and she has given a complaint against the respondent and filed a complaint



under the Domestic Violence Act, showing the address at Thisayanvilai. The petitioner has created address at Tuticorin only to harass the respondent and filing the petition. He further submitted that the petitioner is regularly appearing before the learned Judicial Magistrate, Tirunelveli and learned Judicial Magistrate, Nanguneri in the complaint given under Domestic Violence Act and Dowry Prohibition Act.

5. The learned counsel for the petitioner contended that she is residing at Tuticorin and doing her Phd., and she is maintaining herself from and out of the stipend amount receiving. She has also stated that the child is with her aged parents and she has filed the documents to show that she is residing at Tuticorin. In view of the documents filed by the petitioner and the contention of the learned counsel for the petitioner that the petitioner's parents and her child are residing only at Thisayanvilai, the statement of the petitioner that it is very difficult for her to travel from Tuticorin to Tirunelveli is acceptable.

6. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

7. 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.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and I.D.O.P.No.134 of 2015, on the file of the Family Court, Tirunelveli, is hereby withdrawn and transferred to the file of the Family Court, Tuticorin. The learned Family Judge, Tirunelveli, is directed to send the case bundles to the Family Court, Tuticorin, 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 Judge, Family Court, Tirunelveli.
2. The Judge, Family Court, Tuticorin.

Copy to: The Section Officer,
V.R. Section,

Madurai Bench of Madras High court, Madurai

+1CC to M/S. H.Arumugam, Advocate, SR.No. 14542

+1CC to M/S. T.Selvan, Advocate, SR.No.14865

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