



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.469 of 2015
and
M.P(MD)No.1 of 2015

Nalini

... Petitioner

Vs.

Mariappan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to transfer the proceedings in H.M.O.P.No.28 of 2015 from the file of Sub Court, Periyakulam, Theni District and transfer the same to the Sub Court, Virudhunagar.

For Petitioner : Mr.B.Jeyakumar

O R D E R

The Transfer Civil Miscellaneous Petition is filed to transfer the proceedings in H.M.O.P.No.28 of 2015 from the file of Sub Court, Periyakulam, Theni District and transfer the same to the Sub Court, Virudhunagar.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 15.09.2011. Due to dispute, the petitioner left the matrimonial home. Whiles, the respondent / husband filed a petition in H.M.O.P.No.28 of 2015 before the Sub Court, Periyakulam, for restitution of conjugal rights. The petitioner is now residing with her parents at Virudhunagar. The distance between Virudhunagar and Theni is about 200 kms and it is very difficult for the petitioner to travel each and every hearing to attend the case in H.M.O.P.No.28 of 2015 before the Sub Court, Periyakulam. The petitioner is depending on her parents for her day-to-day expenses including travelling expenses. She has also stated that it will not be difficult for the respondent / husband to attend the hearing at Sub Court, Virudhunagar. Therefore, she has come out with the present petition for transfer.



3. 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.

4. 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.

5. Considering the facts and circumstances, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.28 of 2015 on the file of the Sub Court, Periyakulam, is hereby withdrawn and transferred to the file of the Sub Court, Virudhunagar, if the same is not yet disposed of. The learned Sub Judge, Periyakulam, is directed to send the case bundles in H.M.O.P.No.28 of 2015 to the Sub Court, Virudhunagar, 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.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Virudhunagar.
2. The Subordinate Judge, Periyakulam.

+1CC to Mr.B.Jeyakumar Advocate Sr.No.22538

Copy to : The Section Officer, V.R & ER Sections,
Madurai Bench of Madras High Court, Madurai.

GJM/KBM/SAR-III-2.6.16-2p-5C

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