



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.04.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.470 of 2015

and

M.P(MD)No.1 of 2015

S.Anitha

.. Petitioner

Vs.

M.Selvam

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer HMOP No.179 of 2014 on the file of Principal Sub Court, Dindigul to Family Court, Madurai for disposal.

For Petitioner : Mr.J.Gunaseelanmuthiah

For Respondent : Mr.K.Manikandan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No.179 of 2014, on the file of the Principal Sub Court, Dindigul and transfer the same to the file of Family Court, 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 05.02.2003. Two children were born in the wedlock. Due to the dispute, the petitioner and the respondent are living separately. Earlier the respondent filed HMOP No.582 of 2009 before the Sub Court, Dindigul. During the pendency of the HMOP, at advise of the elders and family members, both settled the matter and they were living together. Subsequently, the respondent refused to maintain the family and therefore, the petitioner left the matrimonial home and residing with her parents along with her children at Madurai. The respondent filed HMOP No.179 of 2014 before the Sub Court, Dindigul, for divorce. The petitioner filed counter statement.

3.According to the petitioner, she is residing with her parents along with her children and her children are studying at Madurai. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travel expenses. The distance between the Madurai to Dindigul is more than 70 kms. She finds it very difficult to travel from Madurai to Dindigul along with her children 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. Now, the petitioner/wife filed this petition to transfer the aforesaid H.M.O.P.No.179 of 2014 filed by the respondent/Husband before the Principal Sub Court, Dindigul to the file of the Family Court, Madurai.

5. Even after taking number of adjournments, the respondent did not file any counter. The learned counsel for the respondent submitted that the respondent is working at Ambiligai Police Station and it will be difficult for him to travel from Dindigul to Madurai.

6. Heard the learned counsel appearing for the petitioner and 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 H.M.O.P.No.179 of 2014, on the file of the Principal Sub Court, Dindigul, is hereby withdrawn and transferred to the file of the Family Court, Madurai. The learned Principal Sub Judge, Dindigul, 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(AE)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

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To

1. The Principal Subordinate Judge, Dindigul.

2. The Judge, Family Court, Madurai.

Copy to:

The Section Officer, V.R. Section,

Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr. J. Gunaseelanmuthiah, Advocate, SR No.20038

+1 cc to Mr. K. Manikandan, Advocate, SR No.20091

RG.JGB-DP/SAR-I 28.04.2016 2P.6C