



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :15.03.2016

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.101 of 2016

and

C.M.P (MD) No.1743 of 2016

Mrs.Sasiay Steffi

.. Petitioner

Vs.

Mr.S.Kuyilan

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.212 of 2015 on the file of the Learned Sub-Judge, Uthamapalayam, Theni District and transfer the same to the Family Court at Madurai.

For Petitioner : Mr.FR.A.Xavier Arulraj
For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.212 of 2015, on the file of the Sub Court, Uthamapalayam, Theni District 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 08.01.2012 as per Hindu Rites and Customs. After the marriage, both were living together in the matrimonial home. A male child was born in the wedlock on 05.10.2012. Due to dispute, both of them living separately.

3.Now, the petitioner is residing along with her child with her mother, who is a widow. The petitioner gave a complaint against the respondent before the Superintendent of Police, Madurai and Inspector of Police, All Women Police Station, Thallakulam. The petitioner also filed a complaint against the respondent before the Tamil Nadu State Commission for Women and State Human Rights Commission on 25.09.2015. While so, in order to circumvent the complaints filed the respondent filed H.M.O.P.No.212 of 2015 before the Sub Court, Uthamapalayam for Restitution of Conjugal rights.



4. According to the petitioner, she is residing at Madurai and the distance between the Madurai and Uthamapalayam is more than 110 kms. The petitioner being a lady finding it very difficult to attend the hearing in the Court at Uthamapalayam without help of others. The minor child is studying L.K.G at Madurai. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Madurai.

5. Heard the learned counsel appearing for the petitioner. Though notice served on the respondent and his name is printed in the cause list, the respondent has not chosen to appear in person or through counsel.

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. In the circumstances, this Transfer Civil Miscellaneous Petition is disposed of and H.M.O.P.No.212 of 2015 on the file of the Sub Court, Uthamapalayam is hereby withdrawn and transferred to the file of the I Additional Sub Court, Madurai. The learned Sub Judge, Uthamapalayam, is directed to send the case bundles to the I Additional Sub Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, C.M.P(MD)No.1743 of 2016 is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

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

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To

- 1.The Subordinate Judge, Uthamapalayam.
- 2.The I Additional Subordinate Judge, Madurai.
- 3.The Section Officer,

V.R.Section, Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.FR.A.Xavier Arulraj, Advocate, SR No.14715

TR.C.M.P (MD) No.101 of 2016

15.03.2016