



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P (MD) No.115 of 2016
and C.M.P (MD) No.1979 of 2016

Muthulakshmi

... Petitioner

Vs.

P.Suthakaran

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer the petition in H.M.O.P.No.169 of 2015 on the file of the Family Court, Dindigul to the file of the Family Court, Madurai.

For Petitioner : M/s.T.Banumathy

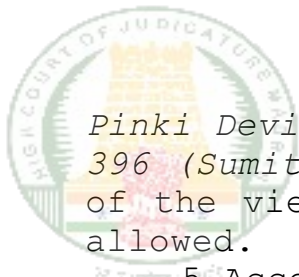
O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.169 of 2015, on the file of the Family Court, Dindigul and transfer the same to the Family Court, Madurai.

2.The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 09.02.2014. Due to some dispute, the petitioner left the matrimonial home. In the mean time, the respondent / husband filed a petition in H.M.O.P.No.169 of 2015 before the Family Court, Dindigul for divorce. Thereafter, the petitioner / wife filed a petition in H.M.O.P.No.97 of 2016 before the Family Court, Madurai for restitution of conjugal rights. The petitioner along with her child is now residing with her parents at Madurai. The distance between Madurai and Dindigul is about 70 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.169 of 2015 on the file of the Family Court, Dindigul. The petitioner is depending on her parents for day to day expenses including the travelling expenses. She has also stated that it will not be difficult for the respondent / husband to attend the hearing at Madurai. Therefore, she has come out with the present petition for transfer.

3.Even though notice was sent to the respondent and his name is printed in the cause list, there is no representation for the respondent.

4.It is well settled law that whenever, the transfer of a case from one court to another 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 petitions filed by the wife is liable to be allowed.

5. Accordingly, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.169 of 2015 on the file of the Family Court, Dindigul is hereby withdrawn and transferred to the file of the Family Court, Madurai, if the same is not yet disposed of. The learned Family Court Judge, Dindigul is directed to send the case bundles in H.M.O.P.No.169 of 2015 to the Family Court, Madurai and try along with H.M.O.P.No.97 of 2016. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Judge, Family Court, Dindigul.
- 2.The Judge, Family Court, Madurai.

+One cc to Mrs.T.Banumathy, Advocate, SR.No.18476

nbj

RL/4C/2P/DP/PM/18/5/2016

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