



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.116 of 2016
and C.M.P(MD)No.1984 of 2016

Amutha Yazhini

... Petitioner/Responent

Vs.

A.Ilayaraja

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.443 of 2015 on the file of the Subordinate Court, Tambaram, Chennai and to transfer the same to the file of the Subordinate Court, Theni.

For Petitioner : Mr.S.Kadarkarai

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.443 of 2015, on the file of the Subordinate Court, Tambaram and transfer the same to the Subordinate Court, Theni to be tried along with the petition in H.M.O.P.No.15 of 2016.

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 wedlock, they were blessed with one female child. 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.443 of 2015 before the Sub Court, Tambaram for divorce. Thereafter, the petitioner filed a petition in H.M.O.P.No.15 of 2016 before the Sub Court, Theni for restitution of conjugal rights. The petitioner along with her child is now residing with her parents at Theni. The distance between Tambaram and Theni is about 550 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.443 of 2015 on the file of the Sub Court, Tambaram. The petitioner is depending on her parents for day to day expenses including the travelling expenses. 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 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 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.443 of 2015 on the file of the Sub Court, Tambaram is hereby withdrawn and transferred to the file of the Sub Court, Theni, if the same is not already disposed of. The learned Sub Court, Tambaram is directed to send the case bundles in H.M.O.P.No.443 of 2015 to the Sub Court, Theni and try along with H.M.O.P.No.15 of 2016. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(Record)

/True copy/

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

To

- 1.The Subordinate Judge, Tambaram.
- 2.The Subordinate Judge, Theni.

+1 cc to Mr.S.Kadarkarai, Advocate, SR No.18494

RG.JGB-SS/ 09/05/2016 2P.4C

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