



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.12 of 2016

and

C.M.P (MD) No.224 of 2016

Prabhavathi

.. Petitioner/Respondent.

Vs.

Ramalingam

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.136 of 2015, on the file of the Learned Sub-Court, Kallakurichi in Viluppuram District and the same may be transferred to the Learned Sub-Court, Paramakudi in Ramanathapuram District.

For Petitioner : Mr.S.Pasumalai

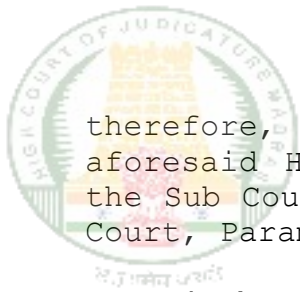
For Respondent : Mr.A.K.Manickam

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No.136 of 2015, on the file of the Sub Court, Kallakurichi and transfer the same to the file of Sub Court, Paramakudi in Ramanathapuram District.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 08.02.2007 as per Hindu Rites and Customs. Two female children were born in the wedlock. Due to the dispute, the petitioner and the respondent are living separately. The respondent is working as a driver. The respondent thrown out the petitioner and her children from the matrimonial home. The petitioner is residing with her parents along with her children. Children are studying at Vasam Matriculation School in Chathirakudi. The respondent filed HMOP No.136 of 2015, before the Sub Court, Kallakurichi in Viluppuram, for Restitution of Conjugal Rights.

3.According to the petitioner, she is residing with her parents along with her children and her children are studying at Chathirakudi. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travel expenses. She has filed M.C.No.23 of 2015, before the learned Judicial Magistrate, Paramakudi for maintenance. After receiving the notice only, the respondent filed the above said HMOP No.136 of 2015. The distance between the Keelambal Village to Kallakurichi is more than 450 kms. She finds it very difficult to travel from Keelambal Village to Kallakurichi 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 Paramakudi and



therefore, the petitioner/wife filed this petition to transfer the aforesaid H.M.O.P.No.136 of 2015 filed by the respondent/Husband before the Sub Court, Kallakurichi in Viluppuram District to the file of the Sub Court, Paramakudi.

4.The learned counsel appearing for respondent submitted that the HMOP filed by respondent is pending before Sub Court, Kallakuruchi and therefore her appearance before the Sub Court is not necessary in all the hearings and prayed for dismissal of Tr.C.M.P.

5.Heard the learned counsel appearing for the petitioner and the respondent.

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. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.136 of 2015, on the file of the Sub Court, Kallakurichi, is hereby withdrawn and transferred to the file of the Sub Court, Paramakudi. The learned Sub Judge, Kallakurichi, is directed to send the case bundles to the Sub Court, Paramakudi, 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.224 of 2016 is closed.

Sd/

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar.

To

1.The Subordinate Judge,
Kallakurichi.

2.The Subordinate Judge,
Paramakudi.

Copy to: The Section Officer,
V.R.Section,
Madurai Bench of Madras High court, Madurai.

+1CC to M/S.M.S.Jeyakarthik, Advocate, SR.No. 20148

TR.C.M.P(MD)No.12 of 2016