



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tr.C.M.P. (MD) .No.148of 2016

and

C.M.P. (MD) .Nos.2594 and 3992 of 2016

V.Nishanthi

.. Petitioner

vs.

K.Stalin

.. Respondent

Prayer: This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the petition of H.M.O.P.No.237 of 2015 from the file of the Sub Court (Camp Melur) at Madurai and to transfer the same to the District Court, Thanjavur.

For Petitioner :Mr.P.Sesubalan Raja
For Respondent :Mr.S.Meltiue

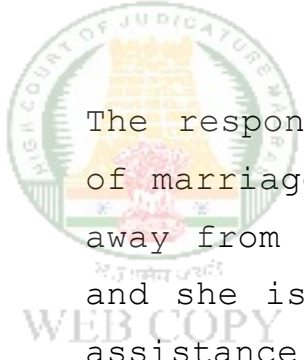
O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the petition of H.M.O.P.No.237 of 2015 from the file of the Sub Court(Camp Melur) at Madurai and to transfer the same to the District Court, Thanjavur.

2.Heard Mr.P.Sesubalan Raja, learned counsel appearing for the petitioner and Mr.S.Meltiue, learned counsel appearing for the respondent and perused the materials available on record.

3.The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 31.05.2012 at A.C.C. Mahal, Y.Othakadai Madurai District. alleged that from the beginning, because of the attitude of the respondent, the marriage life of the petitioner has become ordeal and she was put to severe hardship and a false theft case was registered against her and her parents.

<https://hcservices.eCourts.gov.in/hcservices>
4.The learned counsel for the petitioner would submit that the petitioner is residing at Thanjavur along with her aged parents.



The respondent has filed H.M.O.P.No.237 of 2015, for dissolution of marriage, before the Subordinate Court, Melur, which is 300 KM away from her residence. She is not having any independent income and she is depending upon her aged parents and she is not having assistance of brothers and sisters.

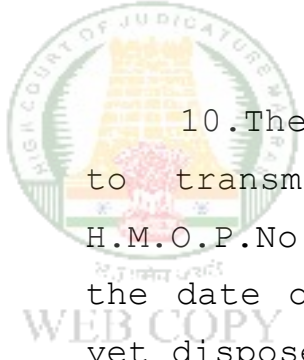
5.Per contra, the learned counsel for the respondent would submit that the petitioner has shown a false affidavit before the Court stating that she is having relatives at Madurai and she is also engaged an Advocate to contest the case at Melur. Even after filing the counter in the divorce petition, she has pleaded that she could not engage the counsel to contest the case at Melur and therefore, he has opposed to transfer the case.

6.The learned counsel has relied upon the judgment of the Orissa High Court in **Sujata Mohanty v. Rudra Charan Mohanty** reported in **I(2008) DMC 708**. In that case, while dismissing the transfer petition, the High Court has directed the husband to bear the transport expenses and her accommodation to contest the case at Cuttack.

7.It is well settled law that while considering the transfer petition filed in matrimonial disputes, the convenience of the wife shall be given preference.

8.In the instant case, the petitioner is aged about 30 years and she has specifically stated that her parents are aged parents and she could not travel for 300 KM from Thanjavur to contest the case at Madurai.

9.In such view of the matter, the petition in H.M.O.P.No.237 of 2015 pending on the file of the Sub Court(Camp Melur) at Madurai, is ordered to be withdrawn and transferred to the file of the the District Court, Thanjavur.



10.The learned Sub-Judge(Camp Melur) at Madurai, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.237 of 2015 to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. No costs. Consequently, the connected C.M.Ps are also closed.

Sd/
Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To

- 1.The Sub Court(Camp Melur), Madurai.
- 2.The District Court, Thanjavur.

+1cc to Mr.P.Sesubalan Raja, Advocate in SR.No.31819
+1cc to Mr.B.S.Meltiue, Advocate in SR.No.32543

SDR/SKS-RR/05.07.2016/3P/5C

Tr.C.M.P. (MD) .No.148of 2016
and
C.M.P. (MD) .No.3992 of 2016
21.06.2016