



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.18 of 2016

and C.M.P(MD)No.1 of 2016

Seethalakshmi

... Petitioner

Vs.

P.Ganesan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer H.M.O.P.No.134 of 2015 on the file of the Sub Court, Pudukottai to the file of the Family Court, Trichy.

For Petitioner : Mr.K.Prabhakar

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.134 of 2015 on the file of the Sub Court, Pudukkottai and transfer the same to the Family Court, Trichy.

2.The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 03.05.2006 and they were blessed with a male child on 08.09.2007. Due to some dispute, both the husband and wife are living separately. Whiles, the respondent filed a petition in H.M.O.P.No.134 of 2015 for divorce by making various false allegations. At present, the petitioner and her son are living with her parents at Trichy. She has stated that the respondent / husband is threatening and harassing her, while she was attending the court hearings. The petitioner filed a case in M.C.No.108 of 2015 before the Family Court, Trichy. Therefore, it is very difficult for her to travel each and every hearing to attend the case in H.M.O.P.No.134 of 2015 on the file of the Sub Court, Pudukkottai. The petitioner is depending on her parents for day to day expenses including travel expenses. Therefore, she has come out with the present petition for transfer.

3.In view of the submission made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both H.M.O.P.No.134 of 2015 and M.C.No.108 of 2015 are to be tried together in the same Court.

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 Singh*) and AIR 2002 SC 396 (*Sumita Singh Vs. Kumar Sanjay and another*). Therefore, it will be in the interest of justice, in order to avoid conflicting decisions, the petition filed by the wife is liable to



be allowed.

5.Considering the facts and circumstances of the case, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.134 of 2015 on the file of the Sub Court, Pudukkottai is hereby withdrawn and transferred to the file of the Family Court, Trichy to be tried along with M.C.No.108 of 2015 filed by the petitioner. The learned Sub Judge, Pudukkottai, is hereby directed to send the case bundles in H.M.O.P.No.134 of 2015 immediately, to the Family Court, Trichy. No costs. Consequently, C.M.P.is closed.

Sd/-

Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To

1.The Sub Judge, Pudukkottai.

2.The Judge, Family Court, Trichy.

+1 CC to Mr.K.Prabhakar, Advocate, SR No.11464

Tr.C.M.P (MD) No.18 of 2016
and C.M.P (MD) No.1 of 2016

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SH/SKS-RR:10.03.2016:2P/4C