



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tr.C.M.P(MD).No.204 of 2016  
and  
C.M.P(MD)No.3741 of 2016

S.Kalyana Sundari

.. Petitioner

Vs.

L.Balaji

.. Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer H.M.O.P.No.396 of 2015 on the file of the Sub Court, Poonamallee to Sub Court, Thoothukudi for being jointly tried with H.M.O.P.No.93 of 2016 on the file for the Sub Court, Thoothukudi.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondent : No appearance

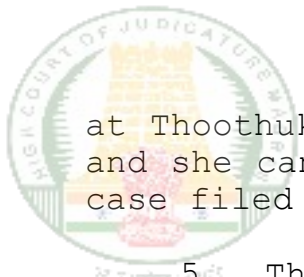
#### ORDER

Invoking the provisions of Section 24 of Civil Procedure Code, the petitioner has approached this Court with this Petition, seeking to withdraw H.M.O.P.No.396 of 2015 from the file of the Sub Court, Poonamallee, to the file of the Family Court, Thoothukudi, for being jointly tried with H.M.O.P.93 of 2016.

2. The petitioner is the wife of the respondent. The marriage between them was solemnized on 14.11.2011 at Thoothukudi. On 02.09.2012, a male child was born in the lawful wedlock. Thereafter, due to matrimonial dispute they are living apart.

3.The case of the petitioner is as such when they were residing at Chennai on 03.06.2012, she was beaten up by the respondent and thrown out of the house and presently, she has been living with her parents along with the child, who is suffering with urine track infection.

4.The learned counsel for the petitioner would submit that the marriage had taken place at Thoothukudi. Both are natives of Thoothukudi and the respondent is presently working at Chennai and filed a case before the Sub Court, Poonamallee. He further added that the witnesses to be examined by the parties are also residing



at Thoothukudi. The petitioner is a young lady, aged about 27 years and she cannot travel to a distance of 600 kilometers to defend the case filed by the respondent before the Family Court, Poonamallee.

5. The learned counsel would further submitted that the petitioner has filed H.M.O.P.No.93 of 2016, against the respondent for restitution of conjugal rights and in the interest of justice and also to avoid conflicting judgments, both cases have to be tried jointly by the same Court.

6. Despite service of notice, the respondent has not chosen to appear either in person or through his counsel.

7. It is settled law that in matrimonial disputes, in case of transfer applications, convenience of the wife has to be given preference.

8. In such view of the matter, this Transfer Civil Miscellaneous Petition is allowed. The learned Sub Judge, Poonamallee, is directed to transmit all the records in H.M.O.P.No.396 of 2015 to the file of the learned Sub Judge, Thoothukudi, within a period of two weeks from the date of receipt of a copy of this order, after obtaining the records on transfer, the learned Sub Judge, Thoothukudi, shall try both cases jointly and dispose of the same as expeditiously as possible. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

PJL

To

1. The Sub Judge, Poonamallee.

2. The Sub Judge, Thoothukudi.

+1 cc to M/s.LAKSHMI SHANKAR, Advocate, Sr.No: 45930

JAM/DB/21.09.16/2P-4C

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