



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.26 of 2016

and C.M.P (MD) No.565 of 2016

P.Lakshmi

... Petitioner/Respondent

Vs.

D.Rajapandian

... 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.424 of 2015 on the file of the Family Court, Madurai and to transfer the same to the Family Court, Sivagangai to try along with the petition in H.M.O.P.No.88 of 2015.

For Petitioner

: Mr.R.Suriyanarayanan

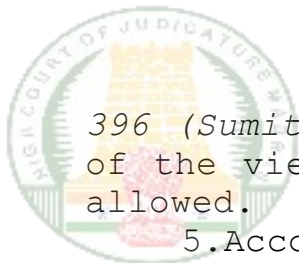
O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.424 of 2015, on the file of the Family Court, Madurai and transfer the same to the Family Court, Sivagangai to be tried along with the petition in H.M.O.P.No.88 of 2015.

2.The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 02.11.2014. Due to wedlock, they were blessed with one female child. Due to some dispute, the petitioner left the matrimonial home and filed a petition in H.M.O.P.No.88 of 2015 before the Family Court, Sivagangai for divorce. Thereafter, the respondent / husband filed a petition in H.M.O.P.No.424 of 2015 before the Family Court, Madurai for restitution of conjugal rights. The petitioner along with her child is now residing with her parents at Sivagangai. The distance between Madurai and Sivagangai is about 50 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.424 of 2015 on the file of the Family Court, Madurai. The petitioner is depending on her parents for day to day expenses including the travelling expenses. She has also stated that it will not be difficult for the respondent / husband to attend the hearing at Sivagangai. 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 petitioner should 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.424 of 2015 on the file of the Family Court, Madurai is hereby withdrawn and transferred to the file of the Family Court, Sivagangai, if the same is not yet disposed of. The learned Family Court Judge, Madurai is directed to send the case bundles in H.M.O.P.No.424 of 2015 to the Family Court, Sivagangai and try along with H.M.O.P.No.88 of 2015. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Judge, Family Court, Madurai.
2. The Judge, Family Court, Sivagangai.

nbj

RL/3C/2P/AAL/MPA/19/5/2016

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