

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 03.03.2016****CORAM:****THE HONOURABLE MS. JUSTICE V.M.VELUMANI****Tr.C.M.P(MD)No.28 of 2016****and****C.M.P. (MD)No.620 of 2016**

T.Dhanalakshmi

... Petitioner

Vs.

T.Kabilachander

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.169 of 2015 on the file of the Subordinate Court, Srivilliputhur and transfer the same to learned Subordinate Judge, Paramakudi.

For Petitioner : Mr.K.C.Ramalingam

For Respondent : Mr.K.Appadurai

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.169 of 2015 on the file of the Sub Court, Srivilliputhur and transfer the same to the Sub Court, Paramakudi.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.11.2014 and they were blessed with a female child on 02.09.2015. Due to some dispute, both the husband and wife are living separately. Whiles, the respondent file a petition in H.M.O.P.No.169 of 2015 for divorce by making various false allegations. At present, the petitioner and her child are living with her parents at Peraiyur, Kamuthi Taluk, Ramanathapuram District. Therefore, it is very difficult for her to travel each and every hearing to attend the case in H.M.O.P.No.169 of 2015 on the file of the Sub Court, Sub Court, Srivilliputhur. 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.The respondent has filed counter affidavit stating that at the time of mediation between the petitioner and the respondent, the parents of the petitioner demanded Rs.10 lakhs for giving consent divorce and also threatened the father of the respondent to execute a gift deed in the name of the petitioner and the respondent jointly. Therefore, the petitioner has come out with the present petition for the dismissal of the Transfer Civil Miscellaneous petition.



4.Both the petitioner and the respondent are making allegations and counter allegations. Those allegations are not necessary to decide the transfer petition.

5.Without deciding the allegations and denial it is to be noted that in matrimonial cases convenience of the wife shall be given preference. 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 petitions filed by the wife is liable to be allowed.

6.Considering the facts and circumstances of the case and the submission of the learned counsel for the respondent, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.169 of 2015 on the file of the Sub Court, Srivilliputhur is hereby withdrawn and transferred to the file of the Sub Court, Paramakudi. The learned Subordinate Judge, Srivilliputhur is directed to send the case bundles in H.M.O.P.No.169 of 2015 to the Sub Court, Paramakudi. No costs. Consequently, C.M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Srivilliputhur.
- 2.The Subordinate Judge, Paramakudi.

+1CC to Mr.K.C.Ramalingam Advocate Sr.No.12396

+1CC to Mr.K.Appadurai Advocate Sr.No.12540

GJM/SK/SKN/23.3.16-2p-5C

Tr.C.M.P(MD)No.28 of 2016
and

C.M.P. (MD)No.620 of 2016
03.03.2016