



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

TR.CMP(MD)No.384 of 2016

and

C.M.P(MD)No.7529 of 2016

Beevi Fathima Rajabunisha

... Petitioner

vs.

Habeeb Rahman

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer O.S.No.159 of 2016 pending on the file of the Hon'ble Principal Judge / Family Court, Chennai to the Hon'ble Principal Sub Court, Thoothukudi, Thoothukudi District.

For Petitioner : Mr.A.Thiruvadikumar

For Respondent : No appearance

ORDER

The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized on 04.05.2014 at Kulasekarapattinam, according to Islamic rituals and customs. Due to the strained relationship between the parties, the respondent filed O.S.No.159 of 2016 for restitution of conjugal rights before the Family Court at Chennai. The contention of the petitioner is that now she is living with the support of her mother at Tuticorin and working as a Primary School Teacher. Therefore, she will not be in a position to travel from Tuticorin to Chennai to defend the case effectively. Further, the petitioner is living along with her aged mother and she cannot leave her mother alone and travel to Chennai.

2.Despite service notice on the respondent and his name is also being printed in the cause list, there is no representation on behalf of the respondent either in person or through pleader and therefore, this Court is constrained to pass orders on merits.

3.Considering the well settled legal position that in transfer petitions, convenience of the wife has to be given preference, this Court is of the view that the case of the petitioner deserves to be considered and accordingly, this Transfer Civil Miscellaneous Petition is allowed and O.S.No.159 of 2016 pending



on the file of the learned Principal Judge, Family Court, Chennai, is ordered to be transferred to the Principal Sub Court, Thoothukudi, forthwith. No costs. Consequently, C.M.P(MD)No.7529 of 2016 is closed.

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Sd/
Assistant Registrar(Crl.Side)

Sub Assistant Registrar.

To
1)The Principal Judge,
Family Court,
Chennai.

2)The Judge,
Principal Sub Court,
Thoothukudi.

+1CC to M/S.A.Thiruvadikumar, Advocate, SR.No. 61568

TR.CMP(MD)No.384 of 2016
19.10.2016

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