

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

Tr. C.M.P No.404 of 2015
& M.P.No.1 of 2015

Mrs.Rajalakshmi Bai ... Petitioner

Vs.

B.Kuppusha ... Respondent

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.11 of 2015 on the file of the Subordinate Judge, Kancheepuram and transfer the same to the file of the Family Court at Vellore.

For Petitioner : Mr.R.Gopinath

For Respondent : Mr.V.V.Sairam

O R D E R

This petition is filed to withdraw the H.M.O.P.No.11 of 2015 on the file of the Subordinate Judge, Kancheepuram and transfer the same to the file of the Family Court at Vellore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 18.04.2014. The respondent and his family members treated the petitioner cruelly by demanding dowry. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.11 of 2015 on the file of Sub Court, Kancheepuram for restitution of conjugal rights. After filing the above OP, the respondent is threatening the petitioner and his family members with dire consequences, if they come to the court to attend the case.

3. According to the petitioner, she is residing at Vellore alongwith her parents. The distance between Vellore and Kancheepuram is 70 kms and it is very difficult for her to attend each and every hearing before Sub Court, Kancheepuram. She is not having any independent income and is depending on her parents for her day-to-day expenses, including the travelling expenses. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

5. The learned counsel for the petitioner submitted that at the time of marriage, the petitioner discontinued her studies and she has now joined +2 and studying in a school at Vellore.

6. It is well settled law 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.11 of 2015 filed by the respondent, from the file of Sub Court, Kancheepuram, to the file of Family Court, Vellore.

7. Considering the facts and circumstances of the present case and having satisfied with the reasons given in the affidavit filed in support of the petition, without deciding the issue on merits, the petition in H.M.O.P.No.11 of 2015 is ordered to be withdrawn from the file of Sub Court, Kancheepuram and transferred to the file of the Family Court, Vellore. The Presiding Officer, Sub Court, Kancheepuram is directed to transmit all the records pertaining to H.M.O.P.No.11 of 2015 to the file of the Family Court, Vellore, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
सहायक न्याय
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

rgr

To

1.The Subordinate Judge,
Kancheepuram.

2.The Judge Family Court,
Vellore.

Tr. C.M.P No.404 of 2015
& M.P.No.1 of 2015

RJ (CO)

sp(11/07/2017)

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