IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.CMP.No.825 of 2015
and MP.No.1 of 2015

S.Savithiri ..Petitioner/Respondent

Vs.

E.Sathiyavel ..Respondent/Petitioner

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw and transfer HMOP.No.93 of 2015 on the file of the Principal Sub Court at Tindivanam to III Additional Family Court at Chennai.

For Petitioner : Mr.H. Krishna Raj
For Respondent : Mr.J.Muthu Kumaran

O R D E R

This petition is filed to withdraw the HMOP.No.93 of 2015 pending on the file of the Principal Sub Court, Tindivanam to the III Additional Family Court, Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 25.5.2012 as per the Hindu rites and customs. In the wedlock, a female child was born on 22.4.2013. The case of the petitioner is that the respondent used to harass the petitioner demanding dowry, in connection with which, the petitioner left the matrimonial house at Tindivanam and stayed with her parents at Chennai. The petitioner filed a petition in M.C.No.309 of 2015 before the III Additional Family Court, Chennai claiming maintenance for herself and her minor child and the same is pending. Subsequent to which, the petitioner filed a petition in D.V.No.10 of 2015 under Domestic Violcent Act before the learned XIV Magistrate, Egmore and the same is pending. The petitioner also filed original petition in O.P.No.3834 of 2015 for restitution of conjugal rights before the III Additional Family Court, Chennai. While so, the petitioner received summons in HMOP.No.93 of 2015 on the file of the Principal Sub Court, Tindivanam, filed by the respondent.

3. According to the petitioner, the petitioner is residing at Chennai, and she is stated to suffer from permanent disability in her left leg, owing to which, she could not walk long distance or stand for a long time. Due to her physical disability, the petitioner was not employed

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

anywhere and she is not having independent income to maintain herself and her minor child. The petitioner and her minor child are depending on the petitioner's parents for their day to day expenses. Since the petitioner being a lady, she could not travel from Chennai to Tindivanam with her minor child without the assistance of others to attend the court proceedings. Moreover, the petitioner is solely depending on her parents to lead her daily life, she could not trouble her parents to meet out the travel expenses incurred to attend the court proceedings. In the said circumstances, the petitioner has come out with the present transfer petition, praying to withdraw and transfer the HMOP.No.93 of 2015 pending on the file of Principal Sub Court, Tindivanam to the file of III Additional Family Court, Chennai, and to be tried along with M.C.No.309 of 2015 pending before the III Additional Family Court, Chennai.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. 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].

7. Having regard to the submissions made by the learned counsel for the petitioner that the HMOP.No.3834 of 2015 and M.C.No.309 of 2015 filed by the petitioner are pending before the III Additional Family Court, Chennai and relying on the above decision, the petition in H.M.O.P.No.93 of 2015 filed by the respondent is ordered to be withdrawn from the file of Principal Sub-Court, Tindivanam and transferred to the file of the III Additional Family Court, Chennai and to be tried along with H.M.O.P.No.3834 of 2015 and M.C.No.309 of 2015 pending before III Additional Family Court, Chennai. The Principal Sub Court, Tindivanam, is directed to transmit all the records pertaining to H.M.O.P.No.93 of 2015 to the file of III Additional Family Court, Chennai, 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.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ds

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

To

1.The Principal Sub Court
Tindivanam.

2.The III Additional Family Court
Chennai.

+2ccs to Mr.H. Krishna Raj, Advocate, S.R.No.42560
+1cc to Mr.J. Muthakumaran, Advocate, S.R.No.42661

SJ(CO)
EU 29.6.17

Tr.C.M.P. No.825 of 2015
and MP.No.1 of 2015

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/