

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.654 of 2016
and
C.M.P.No.17349 of 2016

Maheswari ... Petitioner/Respondent

Vs.

Manival ... Respondent/Petitioner

Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.81/2016 on the file of the Sub Court, Athur and transfer it to the Principal Sub Court, Vridhachalam to be tried alongwith HMOP No.109 of 2016 on its file.

For Petitioner : Mr.R.Meenal

For Respondent : No appearance

O R D E R

This transfer petition is filed to withdraw H.M.O.P.No.81/2016 on the file of the Sub Court, Athur and transfer it to the Principal Sub Court, Vridhachalam to be tried alongwith HMOP No.109 of 2016 on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 20.08.2016. Due to the torture given by the respondent, the petitioner left the matrimonial house and now living with her parents at Vridhachalam. The petitioner filed H.M.O.P.No.109 of 2016 for dissolution of marriage and the same is pending before the Principal Sub Court, Vridhalachalam. On receiving the notice, the respondent filed H.M.O.P.No.81 of 2016 before Sub Court, Athur for restitution of conjugal rights.

3. According to the petitioner, she is residing in a village at Vridhachalam alongwith her parents. The distance between Vridhachalam and Athur is more than 80 kilometers and it

is very difficult for her to travel along with her aged parents, for each and every hearing before Sub Court, Vridhachalam. 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. Though notice has been served on the respondent and the respondent had entered appeared through counsel, there is no representation for the respondent.

5. 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.81 of 2016 from the file of Sub Court, Athur to the file of Principal Sub Court, Vridhachalam where H.M.O.P.No.109 of 2016 filed by the petitioner is pending.

6. Taking into consideration the above facts and for convenience of both parties and to avoid conflicting decisions, both H.M.O.P.No.81 of 2016 pending on the file of the Sub Court, Athur and H.M.O.P.No.109 of 2016, pending on the file of Principal Sub Court, Vridhachalam are to be tried together in the same Court, for joint trial. The Presiding Officer, Sub Court, Athur is directed to transmit all the records pertaining to H.M.O.P.No.81 of 2016 to the file of Principal Sub Court, Athur, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Sub Court,
Athur.

2.The Principal Sub Court,
Vridhachalam.

+1cc to M/s.R.Meenal, Advocate, S.R.No.41320

Tr.C.M.P.No.654 of 2016

SKS (CO)
CA(22/06/2017)



WEB COPY