

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.798 of 2016
and C.M.P.No.20235 of 2016

S. Abinaya ... Petitioner

Vs.

N.Vinothraj ... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.948 of 2016 from the file of the Family Court(Principal Subordinate Court) Madurai and transfer the same to the Family Court, Dharmapuri.

For Petitioner : Ms.M.Sudha

For Respondent : Mr.S.S.Raghavan

O R D E R

This petition is filed to withdraw H.M.O.P.No.948 of 2016 from the file of the Family Court(Principal Subordinate Court) Madurai and transfer to the file of the Family Court, Dharmapuri.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.01.2013 as per Hindu rites and customs. In the wedlock, a male child was born on 16.10.2013 to them. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.948 of 2016 for restitution of conjugal rights, on the file of the Family Court (Principal Subordinate Court) Madurai. The petitioner filed FCMC.No.44 of 2016 on the file of Family Court, Dharmapuri seeking maintenance for herself and her child.

3. According to the petitioner, she is residing at Dharmapuri with her parents along with her minor child. The distance between Dharmapuri and Madurai is more than 300 kilometres and hence, it is very difficult for her to travel from Dharmapuri to Madurai to attend the hearing. Moreover, she is unemployed and is depending on her parents. Therefore, she prays for transfer of H.M.O.P.No.948 of 2016 from the file of

the Family Court(Principal Subordinate Court) Madurai to the file of the Family Court, Dharmapuri.

4. Heard the learned counsel for the petitioner and 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].

6. Having regard to the submissions made by the learned counsel for the petitioner along with the above decisions, the petition in H.M.O.P.No. 948 of 2016 is ordered to be withdrawn from the file of the Family Court(Principal Subordinate Court) Madurai and transferred to the file of the Family Court, Dharmapuri and to be tried along with FCMC.No.44 of 2016 for joint trial. The Presiding Officer, Family Court(Principal Subordinate Court) Madurai, is directed to transmit all the records pertaining to H.M.O.P.No.948 of 2016 to the file of the Family Court, Dharmapuri, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gv

To

1.The Principal Subordinate Judge,
Family Court Madurai .

2.The Family Judge,
Dharmapuri.

+lcc to Mr.C.Munusamy, Advocate Sr. 42476

Tr.C.M.P. No.798 of 2016
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BR(CO)
VR(10/07/2017)