



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2017

CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

TR.C.M.P (MD) No.150 of 2017

and

C.M.P. (MD) No.3446 of 2017

A.J.Kavitha

...Petitioner / Respondent

Vs.

C.A.Murali

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.195 of 2016 on the file of 3rd Additional Sub Judge, Coimabtoire (Camp Court at Mettupalayam), and to transfer the same to the file of Sub Court, Karur.

For Petitioner : Mr.S.Gokulraj
For Respondent : Mr.G.Vanjinathan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.195 of 2016 on the file of III Additional Sub Judge, Coimabtoire (Camp Court at Mettupalayam), and transfer the same to the file of Sub Court, Karur.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 31.05.2004 as per Hindu Religious Rites and Customs. They were blessed with a male child viz., Parveesh, who was born on 10.04.2007. After that, the respondent and his family members are started cruelty demanding dowry. Even after birth of the child, the respondent was not interested to see the child. Now, the respondent filed H.M.O.P.No.195 of 2016 on the file of the III Additional Sub Judge, Coimabtoire (Camp Court at Mettupalayam) for divorce. The petitioner is now residing at Karur along with her old age mother and tender age child and therefore, the petitioner is not in a position to appear before the III Additional Sub Judge, Coimabtoire (Camp Court at Mettupalayam) and prayed for transfer.

3.The learned counsel for the respondent would submit that it is only Sub Court and it is not necessary for the petitioner to come for all the hearings and therefore, there cannot be any prejudice caused for her to attend the Court at Coimbatore.

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



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)**. I am satisfied with the reasons stated in the affidavit filed in support of this petition.

6. Taking into consideration of the facts and circumstances of the case and in the interest of justice, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

i) The learned III Additional Sub Judge, Coimabtoire (Camp Court at Mettupalayam), is directed to transmit the entire records in H.M.O.P.No.195 of 2016 to the file of the Sub Court, Karur, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Sub Judge, Karur, after obtaining the records on transfer, is directed to dispose of both H.M.O.P.No.195 of 2016, as expeditiously as possible in accordance with law.

No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The III Additional Sub Judge, Coimabtoire
(Camp Court at Mettupalayam).

2.The Sub Court, Karur.

+1cc to Mr.S.Gokulraj, Advocate Sr.No.70379

RJ2

VB/JC/SAR4/18/08/2017/2P/4C

TR.C.M.P(MD)No.150 of 2017
03.08.2017