



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P.(MD)No.153 of 2017
and C.M.P.(MD)No.3562 of 2017

Umamaheshwari ... Petitioner/Respondent
Vs.
K.Dinesh . ..Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 read with 151 of C.P.C. to withdraw the case in H.M.O.P. No.892 of 2014 on the file of the Family Court, Tiruchirappalli and transfer the same to any other Family Court, Thanjavur District.

For Appellant : Mr.A.Sankararamasubramanian

For Respondent : Mr.M.Satheeskumar

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P. No.892 of 2014 from the file of the Family Court, Tiruchirappalli to the file of the Family Court, Thanjavur District.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The marriage between the petitioner and the respondent was solemnized on 08.09.2013 at Santhanamahai, Marakadai, Tiruchirappalli. At the time of marriage, the petitioner's parents gave 16 Sovereigns of Gold Jewels, a sum of Rs.40,000/- towards the Marriage expenses to the parents of the respondent, a sum of Rs.82,000/- towards purchasing house hold articles, wooden cot and steel bureau. Since the petitioner has passed B.Ed, the parents of the respondent compelled the petitioner to go for job. But, no suitable job was available to the petitioner. Therefore, the respondent and his parents harassed the petitioner on day to day basis and they created mental agony. Finally, the petitioner went to her parents house at Thanjavur during the last week of February 2014.

4. To shock and surprise, the husband/respondent filed a petition for divorce in H.M.O.P.No.892 of 2014 before the Family Court, Tiruchirappalli to declare the marriage dated 08.09.2013 as null and void. The petitioner has also filed H.M.O.P.No.61 of 2015 on the file of the Additional Subordinate Judge, Thanjavur, for relief of restitution of conjugal rights, in which the respondent also appeared in person. The respondent filed H.M.O.P. 892 of 2014 on the file of the Family Court, Trichy for the relief



of divorce on the ground that the petitioner is affected by mental illness and the respondent is specifically mentioned that the petitioner is a mentally deranged person.

5. This Court by order dated 29.06.2017 called a report from the Assistant Professor, Psychiatric Department as to the mental condition of the petitioner and the same was referred to the Government Rajaji Hospital, Madurai -20 and the report has already been received by this Court and the said report clearly shows that the petitioner has been kept under observation from 07.07.2017 to 21.7.2017 and observation and clinical findings do not suggest any features of major mental illness in this individual at present.

6. The learned counsel for the respondent would submit that the distance between Trichy to Thanjavur is only 40 kms and therefore, the case need not be transferred and the petitioner can very well attend the court for hearing.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

8. It is well settled law that whenever, a 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*).

9. I am satisfied with the reasons stated in the affidavit filed in support of this petition and considering the report sent from the Government Rajaji Hospital, Madurai dated 21.07.2017 and also in view of the above judgement, I am of the view that the petition filed by the wife is liable to be allowed with the following directions:

i) The learned Judge, Family Court, Trichirappalli, is directed to transmit the entire records in H.M.O.P.No. 892 of 2014 to the file of the Family Court, Thanjavur, within a period of two weeks from the date of receipt of copy of this order

ii) the learned Judge, Family Court, Thanjavur, after obtaining the records on transfer, is directed to dispose of the matter as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.3562 of 2017 is closed.



To,

1.The Judge,
Family Court,Tiruchirappalli.

2.The Judge,
Family Court, Thanjavur.

+One cc to M/s.K.Rajeshwaran, Advocate, SR.No.71594

+One cc to M/s.G.Karnan, Advocate, SR.No.71091

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RL/5C/3P/SV/MMS/SAR2/18/8/2017

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