

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 11.09.2017****CORAM**

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**TR. C.M.P (MD) .No.225 of 2017
and C.M.P (MD) No.5160 of 2017**

T.Dayana Devi ...Petitioner/Respondent

Vs.

S.Kathirvelu ... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in H.M.O.P.No.61 of 2016, on the file of the Subordinate Judge, Sankagiri, Salem District and transfer the same to the Subordinate Court at Dindigul.

For Petitioner : Mr.K.Manikandan

For Respondent : Mr.R.Satish

J U D G M E N T

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.61 of 2016 from the file of the Subordinate Judge, Sankagiri, Salem District to the file of the Subordinate Court at Dindigul.

2. The petitioner would aver among other things that the marriage between the petitioner and the respondent was solemnized on 29.08.2014 as per Hindu rites and customs. The marriage was registered on 20.02.2015 before the Registrar Office, Kumarapalayam. The petitioner was put to humiliation by demanding additional dowry. She gave birth to a male child namely Rithick.

3. The case of the petitioner is that the respondent and the family members had demanded dowry and the respondent has deserted her. The petitioner is residing at her parents' house at Nilakkottai, Dindigul District. According to the petitioner, her child's health condition is also not good and she is depending upon her parents for the basic needs of herself as well as her child. All of a sudden with the false allegation, the respondent filed a petition in H.M.O.P.No. 61 of 2016 before the Subordinate Judge, Sankagiri, Salem District for the Restitution of Conjugal Rights. The petitioner submits that the distance between the



petitioner's residence to Sankagiri is more than 200 Kms and she cannot travel for a long distance with a small baby Hence, the petitioner prays for transfer.

4. The learned counsel for the petitioner would submit that the petitioner was always willing to live with her husband but the respondent has filed the petition for restitution of conjugal rights with ulterior motive.

5. The learned counsel for the respondent submits that the respondent is working as Software Engineer at Bangalore and the respondent do not have any objection for transfer, provided, disposal of the petition at an early date.

6. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondent.

7. I am satisfied with the reasons stated in the affidavit filed in support of this petition. It is well settled law that convenience of woman is to be taken into consideration at the time of considering transfer applications as held by the Supreme Court in the judgment reported in **2008(9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**. I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Subordinate Judge, Sankagiri, Salem District is directed to transmit the entire records in H.M.O.P.No.61 of 2016 to the file of the Subordinate Court at Dindigul, within a period of two weeks from the date of receipt of copy of this order.

ii) considering the submission of the learned counsel for the respondent, the learned Subordinate Judge, Dindigul, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.61 of 2016 within a period of three months thereafter.

No costs. Consequently, connected C.M.P.(MD) No.5160 of 2017 is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To,

<https://hservices.hc.madras.gov.in/hservices/>
The Subordinate Judge,
Sankagiri, Salem District.



2. The Subordinate Judge, Dindigul

+1 cc to Mr.K.Manikandan , Advocate in SR.No. 77750

+1 cc to Mr.R.Satish , Advocate in SR.No. 78559

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