



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P.(MD)No.230 of 2017

and

C.M.P.(MD)No.5525 of 2017

M.Brunda

... Petitioner/Respondent

Vs.

R.Mukesh Santhar

...Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw the case in H.M.O.P. No.58 of 2015 pending on the file of the Sub Court, Theni District and transfer the same to Sub Court Paramakudi to have joint trial with H.M.O.P. No.65 of 2015 on the file of the Sub Court, Paramakudi.

For Petitioner	:	Mr.M.Jegadeesha Pandian
For Respondent	:	Mr.B.Jayakumar

J U D G M E N T

This petition has been filed seeking transfer of H.M.O.P. No.58 of 2015 from the file of the Sub Court, Theni District to the Sub Court Paramakudi to have joint trial with H.M.O.P. No.65 of 2015.

2. It is stated that the marriage between the petitioner and the respondent was solemnized on 23.11.2012 at Alagu Seenivasan Thilagavathy Marriage Hall at Chinnamanur, Theni District as per the Hindu ceremonies. At the time of marriage, the respondent worked as a Branch Manager, Syndicate Bank at Port-Blair, Andaman. The petitioner returned to Kamuthi to start work. In the month of May 2014, the respondent obtained transfer to Cumbum Branch, Theni District. In that situation, the respondent has filed a divorce application in H.M.O.P.No.58 of 2015 on the file of the Sub Court, Theni alleging that the petitioner did not co-operate with the respondent to live in the matrimonial home and willfully deserted the matrimonial home.

3. The petitioner denied such allegation and therefore, the petitioner filed an application in H.M.O.P.No.65 of 2015 on the file of the Sub Court, Paramakudi for restitution of conjugal rights. In that petition, it is stated that though the petitioner made all earnest efforts for transfer to the place where the



husband is residing, but it could not succeed because of the administrative reasons. Initially, the respondent's allegation is that she has not taken steps for transfer wantonly and willfully. Now the respondent is making wrong allegations against the petitioner.

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4. The petitioner is residing along with her parents at Kamuthi and working as an Assistant Manager, Kamuthi Branch, State Bank of India and for each and every hearing, the petitioner has to travel a long distance. The divorce petition filed by the respondent was decreed ex-parte since the petitioner has not appeared before the Court. Thereafter, the petitioner has filed an application to set aside the ex-parte decree and the same was set aside and the divorce petition is pending. It is difficult for the petitioner to go to Theni. Therefore, the petitioner sought for transfer.

5. The learned counsel for the respondent would submit that even the respondent has no objection for transfer, there may a direction to the lower court to dispose of the matters within a stipulated time.

6. Heard the learned counsel appearing on either side.

7. 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*).

8. I am satisfied with the reasons stated in the affidavit filed in support of this petition 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 Sub Judge, Theni is directed to transmit the entire records in H.M.O.P.No.58 of 2015 to the file of the Sub Court, Paramakudi, within a period of two weeks from the date of receipt of copy of this order.

ii) On considering the submission made by the learned counsel for the parties, the learned Sub Judge, Paramakudi, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.58 of 2015 and H.M.O.P.No.65 of 2015 jointly as expeditiously as possible preferably within a period of six months in accordance with law.



No costs. Consequently, connected C.M.P.(MD) No.5525 of 2017 is closed.

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/True Copy/

Sd/-

Assistant Registrar(CS-II)

Sub-Assistant Registrar

To,

1.The Subordinate Judge ,
Theni District.

2.The Subordinate Judge ,
Paramakudi.

+2ccs to M/s.Jagadeesh Pandian, Advocate, SR.No.72114

+One cc to M/s.B.Jeyakumar, Advocate, SR.No.72181

cm

RL/6C/3P/JC/SAR1/7/9/2017

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