



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD) .No.232 of 2017
and C.M.P (MD) No.5545 of 2017

Deepa

...Petitioner

Vs.

Bharathidhas

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.No.57 of 2017, pending on the file of the learned Sub Court, Udumalaipetta and transfer to the learned Sub Court Palani and conduct the joint Trial along with H.M.O.P.No.82 of 2017.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.T.J.Charles Antony Stephen

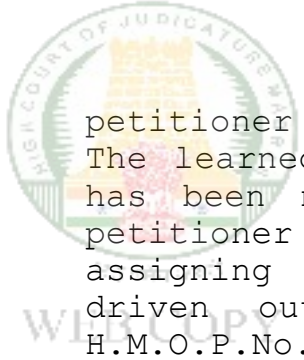
J U D G M E N T

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.57 of 2017, from the file of the learned Sub Court, Udumalaipettai to the file of the Sub Court, Palani and conduct the joint Trial along with H.M.O.P.No.82 of 2017.

2. The petitioner would aver among other things that the petitioner was married to one Baskaran on 07.03.2012. The first husband Baskaran died on 07.09.2013 in heart alienation and out the wedlock, a male child was born. Only after knowing the facts, the marriage with the respondent had taken place on 03.04.2015.

3.The petitioner submits that the petitioner was residing in her husband's house along with husband's family members as a joint family and right from the marriage, the petitioner has taken care of the entire members of the respondent's family and functioning as a dutiful wife. Further, there is no such dispute in the matrimonial life between the petitioner and the respondent. Due to the matrimonial life one female child was born at Palani on 05.04.2016. Thereafter, the petitioner came to her husband's house along with her children and lived a peaceful manner for some time. Subsequently, the petitioner has suffered illness and hence, the attitude of the respondent and his family members has entirely changed. The respondent and his family members have quarreled with the petitioner.

4.The petitioner further submits that the respondent left the



petitioner at Palani and he has been living along with his parents. The learned counsel for the petitioner submits that the respondent has been making allegations as against the petitioner that the petitioner left the matrimonial home of the respondent without assigning any excuse. But it is the respondent herein, who had driven out her from matrimonial home. The respondent filed H.M.O.P.No.57 of 2017 before the learned Sub Court, Udumalaipettai seeking the relief of Divorce.

5. The petitioner filed H.M.O.P.No.82 of 2017 before the Sub court, Palani for Restitution of Conjugal Rights and Maintenance Case in M.C.No.16 of 2017 before the learned Judicial Magistrate, Palani, which are pending adjudication.

6. It is submitted that the petitioner and her four years child are depending on her age old parents and the petitioner is not able to travel and it is very difficult for the petitioner to appear before the learned Sub Court, Udumalaipettai.

7. The learned counsel for the respondent would submit that the distance between Udumalaipettai and Palani is 25 to 35 kms and therefore, it is not difficult for her to travel and he prays that in case of transfer, a direction may be issued to the trial Court for earlier disposal of the petitions.

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

9. 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 Court, Udumalaipettai is directed to transmit the entire records in H.M.O.P.No.57 of 2017 to the file of the Subordinate Court at Palani and the learned Judicial Magistrate, Palani, is directed to transmit the records in M.C.No.16 of 2017 to the file of the Subordinate Court at Palani 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, Palani, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.57 of 2017, M.C.No.16 of 2017 along with H.M.O.P.No.82 of 2017 within a period of six months thereafter.



No costs.
closed.

Consequently, connected C.M.P.(MD) No.5545 of 2017 is

Sd/-

Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To,

1.The Sub Court,
Palani.

2.The Sub Court,
Udumalaipettai.

3.The Judicial Magistrate,
Palani.

+1cc to Mr.T.J.CHARLES ANTONY STEPHEN Advocate in SR. No. 79454

+1cc to Mr.K.HARIHARAN Advocate in SR. No. 78963

CM

JS/KK/SAR.2/5.10.2017/3P-6C

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and
C.M.P (MD) No.5545 of 2017
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