

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 26.07.2017

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**TR. C.M.P (MD) .No.236 of 2017****and****C.M.P (MD) No.5598 of 2017**

R.Mahalakshmi

... Petitioner/Respondent

Vs.

Raja @ Kesavarajan

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the H.M.O.P.No.60 of 2017 on the file of Subordinate Court at Karur to Subordinate Court, Palani.

For Petitioner : Mr.R.Mathiyalagan.

For Respondent : No Appearance.

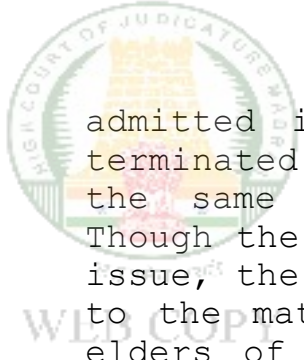
ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.60 of 2017, from the file of the Subordinate Court, Karur to the file of the Subordinate Court, Palani.

2. Though notice has been served on the respondent, he has not appeared in person or through counsel. Heard Mr.R.Mathiyalagan, learned counsel appearing for the petitioner.

3. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 20.08.2012 at P.J.K.Thirumanamandapam, Andipattikottai as per Hindu Rites and Customs. The entire marriage expenses were met out by the petitioner's parents. At the time of marriage, 20 sovereign of gold ornaments was given as dowry. The respondent is doing financial business at Chennai. Due to wedlock, the petitioner gave birth to a male child.

4. The learned Counsel for the petitioner further submitted that when the petitioner was pregnant, on 01.01.2017, the respondent unnecessarily quarreled with her and beaten her and she sustained internal and external injuries, due to which she was



admitted in the hospital and at that time, the pregnancy got terminated. Hence, the hospital authority informed the police and the same was registered by the Aravakuruchi Police Station. Though the petitioner's father and herself tried to compromise the issue, the respondent has adamantly refused to take the petitioner to the matrimonial house. In spite of the efforts taken by the elders of her village to try to compromise the issue, the same ended in vain.

5. The learned Counsel for the petitioner further submitted that now the respondent has filed a petition in H.M.O.P.No.60 of 2017 on the file of the Subordinate Court, Karur, under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal rights and the said petition has been filed only to harass the petitioner. The petitioner is also having 2 years old baby and the distance between Karur and Palani is nearly 100km and it is very difficult for the petitioner to travel 200km for attending every hearing. Hence, the petitioner has filed this petition seeking transfer the petition to the file of the Subordinate Court, Palani.

6. Notice sent to the respondent through Court was served on 03.07.2017. In spite of the same, the respondent has not chosen to appear before this Court either in person or through Counsel.

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, Karur, is directed to transmit the entire records in H.M.O.P.No.60 of 2017 to the file of the Subordinate Court, Palani within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Subordinate Judge, Palani after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.60 of 2017 as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.5598 of 2017 is closed.

Sd/-

Assistant Registrar(P&A)



To

1. The Subordinate Judge, Karur.

2. The Subordinate Judge, Palani.

+1cc to M/S. R.MATHIYALAGAN, Advocate, SR.No.67744.

TR C.M.P(MD) .No.236 of 2017
26.07.236

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