



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.03.2017

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.24 of 2017

and

C.M.P(MD)No.753 of 2017

Elizabeth Beaula

...Petitioner/Respondent

Vs.

Suresh Babu

...Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the I.D.O.P.No.72 of 2016, on the file of the Family Court, Madurai to the Family Court, Tambaram.

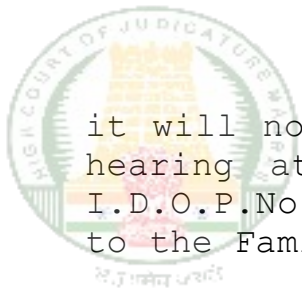
For Petitioner	: Mr.P. Vijayakumar
For Respondent	: Mr.S.Mahendrapathy

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw I.D.O.P.No.72 of 2016, pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Tambaram.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 03.09.2007 at Madurai TELC Church, Santhi Nagar, Madurai, as per Christian Rites and Customs. After the marriage, both were living together in the matrimonial home. Due to misunderstanding between the petitioner and the respondent, the respondent thrown out the petitioner from the matrimonial home and both were living separately. The respondent filed I.D.O.P.No.72 of 2016 for Restitution of Conjugal Rights, before the Family Court, Madurai.

3.According to the petitioner, she is residing at Tambaram along with her aged parents. She is not having any independent income and she is depending on her parents for her day-to-day expenses, including the travelling expenses. The distance between the Tambaram and Madurai is more than 500 kms. The petitioner, being a lady, finds it very difficult to attend the hearing in the Court at Madurai without help of others. She has also stated that



it will not be difficult for the respondent/husband to attend the hearing at Tambaram. Therefore, she prayed for transfer of I.D.O.P.No.72 of 2016, on the file of the Family Court, Madurai, to the Family Court, Tambaram.

4. Heard the learned counsel appearing for the petitioner.

5. The learned counsel appearing for the respondent has opposed the transfer Civil Miscellaneous Petition.

6. It is well settled law that whenever, the 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)**. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and I.D.O.P.No.72 of 2016, on the file of the Family Court, Madurai, is hereby withdrawn and transferred to the file of the Family Court, Tambaram. The learned Family Court Judge, Madurai is directed to send the case bundles to the Family Court, Tambaram, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, C.M.P(MD)No.753 of 2017 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Madurai.

2. The Judge, Family Court, Tambaram.

+1 cc to MR.S.Mahendrapathy, ADVOCATE, SR No. 13083

+1 cc to MR.P.Vijayakumar, ADVOCATE, SR No. 13064

TR.C.M.P(MD)No.24 of 2017
07.03.2017

am/sss/rsb

MKV-SV-MMS/21.3.2017/2P-5C