



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.09.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P (MD) No.245 of 2017

and

C.M.P. (MD) No.5870 of 2017

Chithra @ Durga Eswari

... Petitioner/Respondent

Vs.

P.Sivakumar

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.39 of 2017 pending on the file of the Sub-Court, Karur and transfer the same to the Sub-Court, Palani for disposal of the same on merits in accordance with law.

For Petitioner : Mr.S.Karthick
For Respondent : Mr.S.Gokul Raj

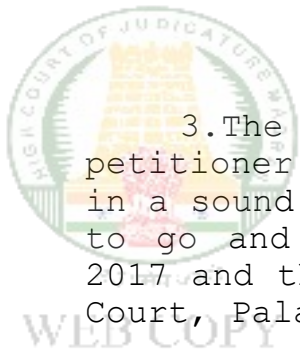
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.39 of 2017 pending on the file of the Sub-Court, Karur and transfer the same to the file of the Sub-Court, Palani.

2.The brief facts of the case are as follows:

(i) The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 03.11.2004 as per Hindu Rites and Customs and after marriage, they were living at Bangalore, where the respondent is doing finance business. Out of the wedlock, the petitioner was blessed with one female child by name Durgasri, aged 10 years and one male child by name Naveenkumar, aged seven years.

(ii) It is the further case of the petitioner that she was subjected to cruelty and even then, adjusting the respondent she was living with the respondent. When the matter stood thus, in the month of January, 2015, the petitioner was thrown out of the matrimonial home and therefore, the petitioner went to her parental home. In the meantime, the respondent has filed H.M.O.P.No.39 of 2017 on the file of the Sub-Court, Karur, for dissolution of marriage and the same is pending and in the meantime, the petitioner filed M.C.No.13 of 2017, before the Judicial Magistrate Court, Palani and the same is also pending and therefore, the petitioner has filed this Transfer Petition seeking transfer of the said case.



3. The learned counsel for the petitioner would submit that the petitioner is under the care and custody of her parents, who are not in a sound financial position and therefore, it is difficult for her to go and appear before the Sub-Court, Karur in H.M.O.P.No.39 of 2017 and therefore, the same may be transferred to the file of Sub-Court, Palani.

4. The learned counsel for the respondent submitted that the respondent has no objection for transfer of the case, if a direction is given for the speedy disposal of the case.

5. 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)**. I am satisfied with the reasons stated in the affidavit filed in support of this petition and the respondent has also no objection for the transfer.

6. Taking into consideration the above facts and circumstances of the case and in the interest of justice, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

i) The learned Judge, Sub Court, Karur, is directed to transmit the entire records in H.M.O.P.No.39 of 2017 to the file of the Sub Court, Palani, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Sub Court, Palani, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.39 of 2017 as expeditiously as possible, more particularly, within a period of six months, in accordance with law.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Karur.

2. The Subordinate Judge,
Palani.

+1cc to Mr. S. GOKUL RAJ Advocate in SR. No. 78159

+1cc to Mr. S. KARTHIK Advocate in SR. No. 78135

PM/VSG

JS/SV.MMS/SAR.1/22.09.2017/ 2P-5C

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