



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :02.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P (MD) No.269 of 2017

and

C.M.P (MD) No.6013 of 2017

Karpagam

...Petitioner

Vs.

Nagappan

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.129 of 2017 on the file of the Sub-Court, Pudukottai and to transfer the same to the file of the Sub-Court, Devakottai.

For Petitioner : Mr.D.Venkatesh

For Respondent : No Appearance

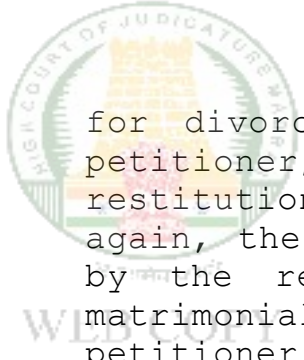
ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.129 of 2017 from the file of the Sub-Court, Pudukottai, and to transfer the same to the file of the Sub-Court, Devakottai.

2.The 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 22.08.2010. Out of the wedlock, the petitioner gave birth to a male child on 09.05.2011. From the date of marriage, the petitioner has been facing cruelty at the hands of the respondent and his parents for want of dowry and therefore, she preferred a complaint before the All Women Police Station, Karaikudi and based on that, a case in Crime No.4 of 2017 for the offences under Sections 498-A, 406, 294(b), 323, & 506(i) of I.P.C and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and on the assurance of the respondent, she rejoined. But, thereafter also, the respondent and his husband ill-treated her and harassed her and therefore, she was forced to come to leave the matrimonial home.

(ii) Thereafter, on 28.03.2013, the respondent sent a legal notice for restitution of conjugal rights and thereafter, a panchayat was held and again they have been reunited. Even thereafter, she was physically harassed and was forced to accept



for divorce and thereafter, to the shock and surprise of the petitioner, she received a legal notice on 28.03.2017 for restitution of conjugal rights making untenable allegations and again, there was a re-union. Finally, due to the harassment made by the respondent and his parents, the petitioner left the matrimonial home. Thereafter, with a view to harass the petitioner, the respondent filed H.M.O.P.No.129 of 2017 before the Sub-Court, Pudukottai, seeking divorce stating untenable allegations.

3. The learned counsel for the petitioner submitted that she is residing with her parents at Karaikudi along with her school going child. 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 petitioner, being a lady, finds it very difficult to attend the hearing in the Court at Pudukkottai without help of others. Therefore, she prayed for transfer of H.M.O.P.No.129 of 2017 on the file of the Sub Court, Pudukkottai, to the file of the Sub-Court, Devakottai.

4. Heard the learned counsel appearing for the petitioner. Though notice has been served on the respondent, he has neither appeared in person nor through counsel.

5. 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)**.

6. In view of the above judgement and also taking into consideration of the fact that the respondent has also not chosen to appear before this Court, I am of the view that the petition filed by the wife is liable to be allowed.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

i) The learned Subordinate Judge, Pudukottai, is directed to transmit the entire records in H.M.O.P.No.129 of 2017 to the file of the Sub-Court, devakottai, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Judge, Sub-Court, Devakottai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.129 of 2017 as expeditiously as possible in accordance with law.



No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AE)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Judge,
Pudukottai.
2. The Sub-Judge,
Devakottai.

+1cc to Mr.D.Venkatesh, Advocate Sr.No.69926

PM

VB/MR/KKR/SAR4/11/08/2017/3P/4C

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