



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2017

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THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P (MD) No.271 of 2017

and

CMP (MD) No.6050 of 2017

K.R.Priyanga

...Petitioner

Vs.

K.Balamurugan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the petition in H.M.O.P.No.148 of 2015 pending on the file of the Subordinate Court, Gopichettipalayam to the file of the Subordinate Court, Devakottai.

For Petitioner : Mr.K.Balamurugan

For Respondent : No Appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.148 of 2015 pending on the file of the Subordinate Court, Gopichettipalayam and transfer the same to the file of the Subordinate Court, Devakottai.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 07.09.2014 as per Hindu Rites and Customs. After that, the respondent did not show his love and affection on the petitioner and their ward B.Aajithran and he used to treat the petitioner as a slave and demanded dowry. Finally, the respondent deserted the petitioner and the child. Hence, the petitioner went to her parents house and presently residing at Devakottai. Thereafter, the respondent filed H.M.O.P.No.148 of 2015 on the file of Subordinate Court, Gopichettipalayam for divorce. The petitioner filed H.M.O.P.No.77 of 2017 on the file of the Subordinate Court, Devakottai for restitution of conjugal rights. The petitioner submits that the distance between the Family Court, Gopichettipalayam and Devakottai is 280 kms and to attend the Court proceedings, she will require somebody to accompany her and it is difficult for her and hence, prayed for appropriate orders.



3. Though notice has been served on the respondent, he has neither appeared through his counsel nor in person. Heard the learned counsel for the petitioner and perused the materials available on record.

4. 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.

5. Taking into consideration of the 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 Subordinate Judge, Gopichettipalayam, is directed to transmit the entire records in H.M.O.P.No.148 of 2015 to the file of the Subordinate Court, Devakottai within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Subordinate Judge, Devakottai, after obtaining the records on transfer, is directed to dispose of both H.M.O.P.No.148 of 2015, as expeditiously as possible in accordance with law.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Gopichettipalayam.

2. The Subordinate Judge, Devakottai.

+1cc to M/S.K.Rajeshwaran, Advocate SR.No. 71595

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