



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE J.NISHA BANU

Tr.C.M.P. (MD) Nos.279, 314 and 315 of 2017
and
C.M.P. (MD) Nos.6711, 6712 and 6189 of 2017

Mrs.Subhamathi ... Petitioner/Respondent in all Tr.C.M.Ps.

Vs.

Mr.Lakshman Kumar ... Respondent/Petitioner in all Tr.C.M.Ps.

PRAYER in Tr.C.M.P.No.279/2017: The Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case in I.A.No.59 of 2012 in H.M.O.P.No.218 of 2011 on the file of Sub Court, Srivilliputhur and transfer the same to the file of III Additional Sub Court, Madurai or any Court of competent jurisdiction.

PRAYER in Tr.C.M.P.No.314/2017: The Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case in H.M.C.M.A.No.5 of 2013 on the file of District Judge, Srivilliputhur and transfer the same to the file of Principal District Judge, Madurai or any Court of competent jurisdiction.

PRAYER in Tr.C.M.P.No.315/2017: The Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case in H.M.C.M.A.No.6 of 2013 on the file of District Judge, Srivilliputhur and transfer the same to the file of Principal District Judge, Madurai or any Court of competent jurisdiction.

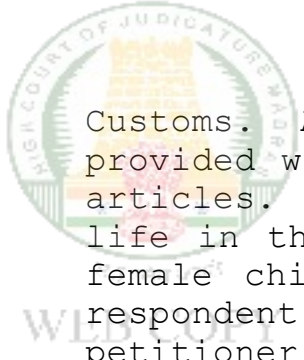
For Petitioner : Mr.T.Lajapathi Roy
For Respondent : Mr.N.Subramanian

C O M M O N O R D E R

These Transfer Civil Miscellaneous Petitions have been filed to transfer the case in I.A.No.59 of 2012 in H.M.O.P.No.218 of 2011 on the file of Sub Court, Srivilliputhur to the file of III Additional Sub Court, Madurai and to transfer the cases in H.M.C.M.A.Nos.5 and 6 of 2013 on the file of District Judge, Srivilliputhur to the file of Principal District Judge, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The marriage between the petitioner and the respondent taken place on 01.06.2006 at Kovilpatti as per Hindu Rites and



Customs. At the time of marriage, the petitioner's parents provided with 100 sovereigns of gold ornaments and other Sridhana articles. Subsequent to the marriage, they started their marital life in the matrimonial home at Thalavaipuram. Out of wedlock, a female child was born and she is 10 years old at present. The respondent continuously giving mental and physical torture to the petitioner and sent back to the petitioner to her parental home without stating any reasons. In spite of several efforts taken by the petitioner, the respondent has not come forward to take back her wife and daughter.

3. It is the further case of the petitioner that the respondent has filed a petition for restitution of conjugal rights in H.M.O.P.No.86 of 2011, which was allowed on 29.09.2011 and on receipt of the same, the petitioner has filed a petition in H.M.O.P.No.218 of 2011, to set aside the ex-parte order, which is pending before the learned Sub Judge, Srivilliputhur. In the mean time, the respondent filed an application in I.A.No.75 of 2011 for a direction to the petitioner to give custody of the child to the respondent and the same was dismissed on 29.09.2011. Hence, the respondent filed an appeal in H.M.C.M.A.No.5 of 2013 before the District Judge, Srivilliputhur and the same is pending. The petitioner further submits that she is facing severe hardship to attend the trial and she prays for transfer of the above cases.

4. When the matter is taken up for hearing today, the learned counsel for the respondent would submit that they have prepared to settle the issue and hence, the matter was posted before the Mediation Centre and after several mediation, the parties were not able to come for an amicable settlement and it was posted today for the parties to be present. The respondent is not present before this Court today.

5. 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 these Transfer Civil Miscellaneous Petitions. Accordingly, these petitions are allowed with the following directions:

- i) The Sub Court, Srivilliputhur is directed to transmit the entire records in I.A.No.59 of 2012 in H.M.O.P.No.218 of 2011 to the file of III Additional Sub Court, Madurai and the District Court, Srivilliputhur is directed to transmit the entire records in H.M.C.M.A.Nos.5 and 6 of 2013 to the file of Principal District Judge, Madurai within a period of



ii) the Sub Court, Srivilliputhur after obtaining the records on transfer, is directed to dispose of the I.A.No.59 of 2012 in H.M.O.P.No.218 of 2011 within a period of three months thereafter.

iii) the District Judge, Srivilliputhur is directed to dispose of the H.M.C.M.A.Nos.5 and 6 of 2013 within a period of three months thereafter.

No costs. Consequently, the connected Miscellaneous Petitions are closed

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Sub Judge,
Srivilliputhur.

2.The III Additional Sub Judge,
Madurai.

3.The District Judge,
Srivilliputhur.

4. The Principal District Judge,
Madurai.

+3cc to M/S.T.Lajapathi Roy, Advocate SR.No. 85109, 85110, 85111
+1cc to M/S.N.Subramanian, Advocate SR.No. 85247

Tr.C.M.P. (MD) Nos.279, 314 and 315 of 2017
02.11.2017

AKV

JM/SKN RSK/SAR 1/27.11.2017/3P/9C