



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.284 of 2017
and C.M.P. (MD) No.6253 of 2017

R.Sabitha ... Petitioner / Petitioner

Vs.

N.Vasanth ... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.118 of 2017 from the file of Learned III Additional Subordinate Judge, Madurai, (Usilampatti Camp Court) and transfer the same to the file of the Subordinate Judge at Periyakulam.

For Petitioner : Mr.C.Murugavel

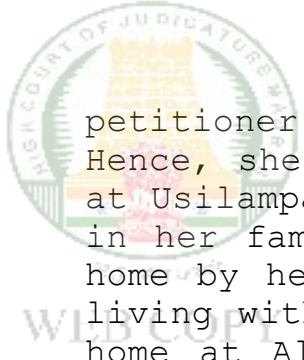
For Respondent : Mr.P.Gunasekaran

J U D G M E N T

This Transfer Civil Miscellaneous Petition has been filed to transfer H.M.O.P.No.118 of 2017 from the file of Learned III Additional Subordinate Judge, Madurai, (Usilampatti Camp Court) to the file of the Subordinate Judge at Periyakulam.

2. The marriage between the petitioner and the respondent took place on 31.08.2014. At the time of marriage, the petitioner was gifted with 15 sovereign of gold jewels, household articles and utensils as dowry as demanded by the respondent and his parents. They have lived together as a joint family along with her in laws. In a few months after a marriage, the petitioner's husband stopped going to work. There caused a problem of cruelty and harassment by her husband and in-laws.

3. The petitioner further averred that out of the wedlock, one girl child named Richika was born on 29.05.2015. She is now 2 years old. The petitioner's husband and his family demanded an additional dowry of 5 sovereigns of gold Jewels from her parents to be adorned on her new born baby and there was quarrel. The petitioner's husband and in-laws assaulted the



petitioner and she was injured and admitted in the hospital. Hence, she lodged a complaint before the All Women Police Station at Usilampatti. Thereafter, matrimonial discord and problems arose in her family life. The petitioner was driven out of matrimonial home by her husband. Since August 2016, the petitioner has been living with her father, mother and younger sister at her maternal home at Alagarnaickanpatti, Periyakulam. The respondent without issuing lawyer notice to the petitioner had hastily proceeded to file a petition for divorce in H.M.O.P.No.118 of 2017 on the file of Learned III Additional Subordinate Judge, Madurai, (Usilampattai Camp) on the basis of false and vexatious allegations. The petitioner is Dependant on her parents for her day to day needs and it is difficult for her to travel to Usilampatti and attend the every hearing of the case. It is approximately 60 Kilometers far away from her parents place. The petitioner cannot travel with her 2 years old girl child.

4. The learned counsel for the respondent would submit that if this Court inclines to transfer the case, the lower court may be directed to dispose of the case within a stipulated period.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. I am satisfied with the reasons stated in the affidavit filed in support of this petition. 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 this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned III Additional Subordinate Judge, Madurai, (Usilampatti Camp Court) is directed to transmit the entire records in H.M.O.P.No. 118 of 2017 to the file of the Subordinate Court at Periyakulam., within a period of two weeks from the date of receipt of copy of this order.

ii) considering the submission of the learned counsel for the respondent, the learned Subordinate Judge, Periyakulam after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.118 of 2017 as expeditiously as possible preferably within a period of six months from the date of receipt of records, in accordance with law.



No costs. Consequently, connected C.M.P.(MD) No.6253 of 2017 is closed.

Sd/-

Assistant Registrar (Co)

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/True copy/

Sub Assistant Registrar

To,

1. The III Additional Subordinate Judge,
Madurai,
Usilampatti Camp Court.
2. The Subordinate Judge,
Periyakulam.

+1 cc to Mr.C.Murugavel , Advocate in SR.No. 75433

cm

AE/GT/SAR1/21.09.2017/3P/4C

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and
C.M.P. (MD) No.6253 of 2017
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