

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 31.08.2017****CORAM****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****TR. C.M.P (MD) .No.290 of 2017**
and C.M.P (MD) No.6372 of 2017

Vimaleswari

... Petitioner/Respondent

Vs.

Udhayabaskar

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the case in H.M.O.P.No.42 of 2017 on the file of Subordinate Court, Virudhunagar, and transfer the same to Subordinate Court, Kovilpatti.

For Petitioner : Mr.B.Tamilnithi

For Respondent : Mr.P.Mahendran

J U D G M E N T

This Transfer Civil Miscellaneous Petition is filed seeking to transfer H.M.O.P.No.42 of 2017 from the file of Subordinate Court, Virudhunagar, to the file of the Subordinate Court, Kovilpatti.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 02.08.2011 as per Hindu rites and customs. At the time of marriage, the petitioner's parents presented gold ornaments and household articles. After the marriage, the petitioner was residing with the respondent in a joint family at Rosalpatti. Due to the wedlock, a female girl was born on 09.10.2012. The petitioner's parents met the entire expenses at the time of delivery. The respondent and his family members were ill-treating and beating the petitioner and abusively talked with the petitioner.

3. The case of the petitioner is that her husband is not taking care of her and when the petitioner suffered from stomach pain, she has taken treatment in the year 2014 at her parental home. The respondent has not taken back the petitioner to the matrimonial home, but he demanded more dowry. While so, the respondent filed a petition in H.M.O.P. No.42 of 2017 on the file of the Sub Court, Virudhunagar, seeking restitution of conjugal rights.

4. The learned Counsel for the petitioner would further submit that the petitioner does not have finance to meet out the travel expenses from Kovilpatti to Virudhunagar for attending each and every hearing and she is depending upon her parents and it is



also difficult for her to travel along with her child and parents. Hence, the petitioner prays for transfer of the petition filed by the respondent from the file of the Sub Court, Virudhunagar to the file of the Sub Court, Kovilpatti.

5. The learned Counsel for the petitioner would further submit that the petitioner had no means to lead her life and therefore, she filed a maintenance petition in M.C.No.6 of 2017 before the Judicial Magistrate No.2, Kovilpatti.

6. The learned Counsel for the respondent would submit that the respondent apprehends that the petitioner's brother is working in Police Department and in spite of that, he agrees for the transfer, provided, the Maintenance Case in M.C.No.6 of 2017 on the file of the Judicial Magistrate No.2, Kovilpatti, is to be tried along with H.M.O.P. and he prays that a direction may be issued to complete the cases within a stipulated time.

7. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondent.

8. 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 Judge, Sub Court, Virudhunagar, is directed to transmit the entire records in H.M.O.P.No.42 of 2017 to the file of the Sub Court, Kovilpatti and the learned Judicial Magistrate No.2, Kovilpatti is directed to transmit the entire records in M.C.No.6 of 2017 to the file of the Sub Court, Kovilpatti, within a period of two weeks from the date of receipt of copy of this order.

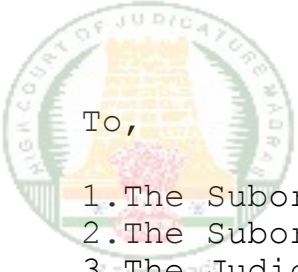
ii) considering the submission of the learned counsel for the respondent, the learned Sub Judge, Kovilpatti after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.42 of 2017 and M.C.No.6 of 2017 within a period of six months from the date of receipt of records.

No costs. Consequently, connected C.M.P.(MD) No.6372 of 2017 is closed.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/



To,

- 1.The Subordinate Judge, Virudhunagar,
- 2.The Subordinate Judge, Kovilpatti.
- 3.The Judicial Magistrate No.2, Kovilpatti.

+1cc to M/s.B.TAMIL NIDHI Advocate in SR. No. 75917

+1cc to Mr.P.MAHENDRAN Advocate in SR. No. 76032

CM

JS/SKN.RSK/SAR.1/9.10.2017/3P-6C

**TR. C.M.P (MD) .No.290 of 2017
and
C.M.P (MD) No.6372 of 2017
31.08.2017**