



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.08.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P(MD)No.297 of 2017
and
C.M.P(MD)No.6466 of 2017

S.Rajalakshmi

...Petitioner

Vs.

R.Saravanan

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.128 of 2016 from the file of the Subordinate Judge, Devakottai and transfer the same to try along with H.M.O.P.No.126 of 2016 now pending before the Additional Subordinate Judge, Kumbakonam.

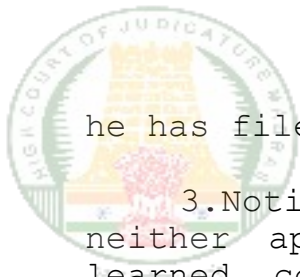
For Petitioner : Mr.V.Chandrasekar

For Respondent : No Appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.128 of 2016 from the file of the Subordinate Judge, Devakottai and transfer the same to the Additional Subordinate Judge, Kumbakonam to try along with H.M.O.P.No.126 of 2016.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 12.06.2013 as per Hindu Sastraic Rites. After marriage, the petitioner was subjected to mental as well as physical cruelty at the hand of her mother-in-law, which resulted in abortion of the fetus and thereafter, she was taken by her parents and she remained in her parents house. Her husband has not even turned up to enquire about her health. Hence, the petitioner was forced to file a petition in H.M.O.P.No.126 of 2016 on the file of the Additional Subordinate Court, Kumbakonam, for restitution of conjugal rights. She has also filed M.C.No.52 of 2016 before the Chief Judicial Magistrate, Kumbakonam claiming maintenance. On 10.02.2017, the maintenance petition was ordered directing the respondent to pay a sum of Rs.10,000/- p.m. from the date of filing of the petition. Thereafter, the respondent has also filed H.M.O.P.No.128 of 2016 on the file of Subordinate Judge, Devakottai, seeking divorce. Now, the petitioner is staying along with her parents. Till today, the respondent has not even complied with the orders passed in the maintenance petition and only to avoid the payment of maintenance,



he has filed this divorce application.

3. Notice has been served on the respondent. The respondent 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 Judge, Subordinate Court, Devakottai is directed to transmit the entire records in H.M.O.P.No.128 of 2016 to the file of the Additional Subordinate Judge, Kumbakonam, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Additional Subordinate Judge, Kumbakonam, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.128 of 2016 as expeditiously as possible in accordance with law, along with H.M.O.P.No.126 of 2016.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Devakottai.

2. The Additional Subordinate Judge, Kumbakonam.

+1cc to Mr.V.Chandra Sekar Advocate in SR. No.70471

RJ2

JS/SKN.RSK/SAR.2/17.08.2017/2P-4C