



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.07.2017**

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P (MD) No.301 of 2017

and

C.M.P (MD) No.6493 of 2017

P.Hema

...Petitioner

Vs.

S.Karthick

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.155 of 2017 on the file of the Principal Sub-Court, Theni and to transfer the same to the file of the Sub-Court, Devakottai for trial.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.J.Lawrance

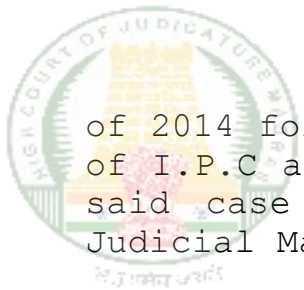
ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the H.M.O.P.No.155 of 2017 from the file of the Principal Sub-Court, Theni to the file of the Sub-Court, Devakottai.

2.The facts of the case are as follows:

(i) The petitioner herein is the wife and the respondent is the husband. The petitioner and the respondent loved each other and after getting acceptance from the parents of both, the marriage was solemnized on 20.08.2012 at Srinivasa Marriage Mahal, Ariyakudi. After marriage, they were residing at Chennai and out of wedlock, the petitioner gave birth to a female child on 28.05.2013.

(ii) It is the case of the petitioner that from the date of marriage, the petitioner had faced cruelty at the hands of the respondent and she was also tortured to change the property stands in the name of her parents to the name of the respondent. Therefore, she made a complaint before the All Women Police Station, Karaikudi and a case was also registered in Crime No.11



of 2014 for the offences punishable under Sections 498(A) & 506(i) of I.P.C and Sections 4 & 6 of the Dowry Prohibition Act and the said case is pending in C.C.No.19 of 2015 before the learned Judicial Magistrate, Karaikudi.

(iii) It is the further case of the petitioner that she had filed a complaint under the provisions of the Protection of Women from Domestic Violence Act and the same is pending in D.V.O.P.No.22 of 2016 before the learned Judicial Magistrate, Karaikudi. When the matter stood thus, the respondent sent a legal notice to the petitioner, seeking divorce by making allegations and for that, the petitioner had also sent a suitable reply. However, the respondent had filed H.M.O.P.No.155 of 2017 before the Principal Sub-Court, Theni, seeking divorce and the same is pending.

3. The learned counsel for the petitioner submitted that the petitioner is having a school going daughter and she has to accompany with her and therefore, it is difficult for her to go and appear before the Principal Sub-Court, Theni for the hearings in H.M.O.P.No.155 of 2017. Therefore, she has come forward with this petition, seeking transfer of the said case to the file of the Sub-Court, Devakottai.

4. Though the learned counsel for the respondent raised many objections for transferring the case, finally, he would submit that if a direction is given for the speedy disposal of the above said case, he would have no objection for transfer.

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

6. It is well settled law that whenever, a 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)**.

7. Taking into consideration of the facts and circumstances of the case and also considering the fact that the learned counsel for the respondent has also got no objection for transferring the above case to the file of the Sub-Court, Devakottai, if a direction is issued for speedy disposal of the case and in the interest of justice, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-



H.M.O.P.No.155 of 2017 to the file of the Sub-Judge, Devakottai, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Sub-Judge, Devakottai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.155 of 2017 as expeditiously as possible, more particularly, within a period of six months from the date of receipt of a copy of this order, in accordance with law.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1.The Principal Subordinate Judge,
Theni.

2.The Subordinate Judge,
Devakottai.

+1 cc to Mr.D.Venkatesh , Advocate in SR.No. 68591

+1 cc to Mr.J.Lawrance , Advocate in SR.No. 68552

pm

AE/MR KKR/SAR2/03.08.2017/3P/5C

TR.C.M.P(MD)No.301 of 2017
28.07.2017