



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.311 of 2017

and C.M.P. (MD) No.6657 of 2017

Aishwarya

... Petitioner/Respondent

Vs.

Kannan

... Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.No.178 of 2017 before the Sub Court, Thiruppur and transfer the same to the Family Court, Tirunelveli.

For Petitioner :Mr.A.Gopal

For Respondent :No Appearance

J U D G M E N T

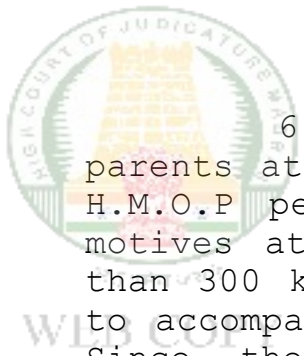
This Transfer Civil Miscellaneous Petition has been filed to transfer H.M.O.P.No.178 of 2017 from the file of the Sub Court, Thiruppur to the file of the Family Court, Tirunelveli.

2. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

3. The petitioner would aver that the marriage between the petitioner and the respondent took place on 12.02.2016 as per the Hindu Rights and Customs. After the marriage, the petitioner was happily living with her husband at the matrimonial house at Chennai. During the month of June 2016, the respondent herein has started harassing the petitioner without any cogent reason and due to the harassment by the respondent herein, the petitioner was not having any peaceful matrimonial life and the respondent caused the petitioner severe mental agony. Thereafter, the petitioner was sent out from the matrimonial home and now she is living with her aged parents.

4. She further submitted that inspite of several mediations, the parents of the respondent and the respondent were not at all co-operating and making any efforts for reunion.

5. The petitioner would further aver that the respondent herein has filed a petition in H.M.O.P.No. 178 of 2017 before the Sub Court, Thiruppur seeking for divorce on false and fictitious grounds and the said Court has issued summons to the petitioner to appear before the Court



6. The petitioner submitted that she is residing with her parents at Vijayadurgapuri Nagar, Tirunelveli, whereas, the above H.M.O.P petition has been filed by the respondent with oblige motives at Sub Court, Thiruppur which is at a distance of more than 300 kms. Further the petitioner do not have male assistance to accompany the petitioner to attend every hearing at Tiruppur. Since, the petitioner is three months pregnant, she is unable to attend every hearing before the Learned Sub Court, Thiruppur. Further she has no source of income to meet the journey expenses.

7. 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 Subordinate Judge, Tiruppur is directed to transmit the entire records in H.M.O.P.No.178 of 2017 to the file of the Family Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Judge, Family Court, Tirunelveli after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.178 of 2017 as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.6657 of 2017 is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To,

- 1.The Sub Court, Thiruppur.
- 2.The Family Court, Tirunelveli.

+1cc to M/S.A.GOPAL, Advocate SR.No.74877

CM

MAS/JC/SAR1:22.09.2017:2P-4C

TR.CMP(MD)No.311 of 2017

and

C.M.P. (MD) No.6657 of 2017

28.08.2017