



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.09.2017

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WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANUTR.C.M.P(MD)No.316 of 2017 and
CMP.(MD)No.6738 of 2017

S.Sowmiya

... Petitioner

Vs.

S.Suresh

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and to transfer the petition made in H.M.O.P.No.29 of 2017 on the file of the Sub Court, Pollachi to the Sub Court, Periyakulam.

For Petitioner : Mr.P.R.Prithiviraj
For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and to transfer the petition made in H.M.O.P.No.29 of 2017 on the file of the Sub Court, Pollachi to the Sub Court, Periyakulam.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.09.2013 at Moongil Annai Kamatchiamman Temple, Devadhanapatty, Theni District, as per Hindu rites and customs. This is the second marriage for both the petitioner and the respondent. Through the first marriage, the petitioner have a son and the respondent have a daughter. After their engagement, the respondent's family demanded dowry. The respondent is working in Navy and out of wedlock, a female child was born to them. Thereafter, the petitioner moved to Mumbai. The petitioner would submit that due to the ill advice of the family members of the respondent, he started to harass the petitioner both mentally and physically. Under such circumstances, the respondent and his family asked the petitioner to leave the son, who was born through her first marriage and as the petitioner was not willing for the same, she was driven away from the matrimonial home and a case was registered against the respondent in Crime No.7 of 2017 under Sections 498(A), 294(b), 506 (i) of IPC and Section 3(1) of Dowry Prohibition Act and Section 4 of Women Harassment Act on the file of All Women Police Station, Theni. Thereafter, as the respondent has not taken any steps, the petitioner filed a petition for conjugal rights in HMOP.No.20 of 2017 on the file of Sub Court, Periyakulam and M.C.No.8 of 2017 on the file of Chief Judicial Magistrate, Theni, seeking maintenance



from the respondent.

3.Now, the petitioner has come forward with the present petition for transfer of HMOP.No.29 of 2017 filed by the respondent for divorce, from the file of the Sub Court, Pollachi to the file of Sub Court, Periyakulam on the ground that the distance between Periyakulam and Pollachi is about 212 kilometers and that she does not have anybody to help her.

4.Though notice has been served on the respondent, he has not appeared in person or through counsel. Heard the learned counsel appearing for the petitioner.

5.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) and AIR 2002 SC 396 (Sumita Singh Vs. Kumar Sanjay and another)**.

6.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 Sub Judge, Pollachi, is directed to transmit the entire records in HMOP.No.29 of 2017 to the file of the Sub Court, Periyakulam, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Sub Judge, Periyakulam after obtaining the records on transfer, is directed to dispose of both HMOP.No.29 of 2017 as expeditiously as possible in accordance with law.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Pollachi.
2. The Subordinate Judge, Periyakulam.

+ 1 CC TO Mr.P.R.PRITHIVIRAJ, ADVOCATE IN SR No. 78187

RJ2

TE/MR-KKR/SAR-IV : 09/10/2017 : 2P/4C
<https://hcservices.ecourts.gov.in/hcservices/>

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