



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD) .No.321 of 2017

and

C.M.P (MD) No.6856 of 2017

S.Revathi ... Petitioner/Respondent
Vs.

S.D.Sivachandran ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code 1908, praying to withdraw the H.M.O.P.No.259 of 2015 on the file of the learned Principle Subordinate Court, Thanjavur filed by the respondent herein and the same may be transferred to the Court of the learned Family Court, Trichy.

For Petitioner :Mr.K.M.Karunakaran

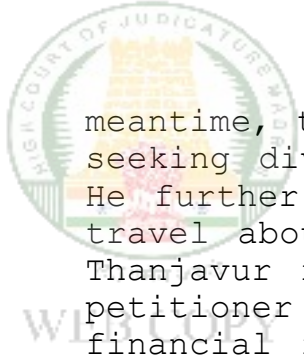
For Respondent :Ms.M.Viji

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.259 of 2015, from the file of Principle Subordinate Court at Thanjavur to the Family Court, Trichy.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 10.11.2014 at Xavier Mahal, Tholkappiar Sathukkam, Thanjavur as per Hindu Rites and Customs. At the time of marriage, 15 1/2 sovereign of gold jewels and Rs.50,000/- cash and household articles were given to the respondent as dowry. After marriage, both of them lived happily at Thanjavur. Subsequently, the petitioner underwent harassment and cruelty under the hands of the mother of the respondent and during the pregnant, the petitioner did not provide food and shelter and medicine and she was sent out of her matrimonial home on 12.08.2015. After that, a male child was born to her in the Government Hospital, Trichy. Till date, the family members of the respondent had not even come forward to look the child.

3. The learned Counsel further submitted that all efforts to reunite the petitioner and the respondent ended in vain. In the



meantime, the respondent filed a petition in H.M.O.P.No.259 of 2015 seeking divorce before the Principal Subordinate Court, Thanjavur. He further stated that it is very difficult for the petitioner to travel about 120 kms with her 1 ½ years old child from Trichy to Thanjavur for attending each and every hearing for the case. The petitioner is also depending upon her parents and for all her financial needs. He also submitted that the petitioner has also filed a petition for maintenance in M.C.No.26 of 2017, on the file of the Family Court, Trichy. Hence, he prays for transfer of the case.

4. The learned Counsel for the respondent would submit that the respondent has no objection for transferring the case, however he prays for transfer of the case to the file of the Subordinate Court, Trichy.

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

6. Since the maintenance case filed by the petitioner is pending before the Family Court, Trichy in M.C.No.26 of 2017, it is not justifiable to transfer the case to the file of the Subordinate Court, Trichy. Hence, the request made by the respondent is rejected.

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 Principal Subordinate Judge, Thanjavur is directed to transmit the entire records in H.M.O.P.No.259 of 2015 to the file of the Family Court, Trichy within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Judge, Family Court, Trichy, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.259 of 2015 as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.6856 of 2017 is closed.

Sd/-

Assistant Registrar(CS-III)



To,

1.The Principle Subordinate Judge, Thanjavur.

2.The Judge,

Family Court,Trichy.

+1cc to Mr.K.M.Karunakaran Advocate in SR. No.71611

SSL/VSG

JS/JS/SAR.2/17.08.2017/3P-4C

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