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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :12.09.2017
CORAM
THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P(MD)No.324 of 2017
and
C.M.P.(MD)No.6878 of 2017

Jebastin Dency ...Petitioner

Vs.

Jerold Nixon ...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw F.C.I.D.O.P.No.56 of 2017 on the file of Family Court, Chengalpattu and transfer the same to the file of the Principal District Court, Tuticorin.

For Petitioner : Mr.R.J.Karthick
For Respondent : Mr.S.Sabbani Karburajothi

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw F.C.I.D.O.P.No.56 of 2017 on the file of Family Court, Chengalpattu and transfer the same to the file of the Principal District Court, Tuticorin.

2.The brief facts of the case are as follows:

(i) The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 19.05.2010 as per Christian Rites and Customs and out of the wedlock, they were blessed with a male child on 26.11.2014 and thereafter, within three months, she was made to do house work and she was put to mental agony and sufferings and therefore, because of her health conditions, the petitioner came to her parental home at Adaikalapuram to take treatment. But, after recovering from the illness also, the respondent has not come forward to take the petitioner back to the matrimonial home.

(ii) But, to the shock and surprise of the petitioner, she has received notice from the Court below to appear in F.C.I.D.O.P.No.56 of 2017 on the file of the Family Court, Chengalpattu and the same is pending and therefore, the petitioner has come forward with the present petition seeking transfer.

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3 .The learned counsel for the petitioner would submit that the petitioner is under the care and custody of her age old parents at Adaikalapuram, who are not in sound financial condition and further, the petitioner is having a child aged about two years and therefore, it is difficult for her to go and appear before the Family Court, Chengalpattu in F.C.I.D.O.P.No.56 of 2017 and therefore, the same may be transferred to the file of the Principal District Court, Tuticorin.

4. When the matter came up on 30.08.2017, considering the facts and circumstances of the case, I have directed the parties to appear before me, for mediation.

5. Today, both the parties appeared in person in Chambers and I have mediated the parties. But, the mediation could not succeed.

6. Therefore, the respondent would submit that he has no objection for transfer of the case if a direction is issued for speedy disposal.

7. Heard the submissions made on either side and perused the materials available on record.

8.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.

9. 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, Family Court, Chengalpattu, is directed to transmit the entire records in F.C.I.D.O.P.No.56 of 2017 to the file of the Principal District Court, Tuticorin, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Principal District Court, Tuticorin, after obtaining the records on transfer, is directed to dispose of both F.C.I.D.O.P.No.56 of 2017 as expeditiously as possible, preferably within six months, in accordance with law.

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No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

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Sub Assistant Registrar

To

1.The Judge, Family Court,
Chengalpattu.

2.The Principal District Judge, Tuticorin.

+1cc to Mr.R.J.Karthick, Advocate Sr.No.78277
+1cc to Mr.S.Sabbani Karburajothi, Advocate Sr.No.78507

PM

VB/KK/SAR2/27/09/2017/3P/5C

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