



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P.(MD)No.339 of 2017

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Velvizhi @ Thangavanam ... Petitioner/ Petitioner/ Petitioner

Vs.

G,Balachandar ... Respondent/Respondent/Respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw and transfer the case in H.M.O.P. No.150 of 2016 on the file of the Sub Judge, Tuticorin District and G.W.O.P.No289 of 2016 on the file of the District Court, Tuticorin to the file of the Family Court, Madurai and for joint trial within a specified time limit as prescribed by this Court.

For Petitioner : Mr.K.Karmegam

For Respondent : No appearance

J U D G M E N T

This petition has been filed seeking transfer of H.M.O.P. No.150 of 2016 from the file of the Sub Judge, Tuticorin District and G.W.O.P.No.289 of 2016 on the file of the District Court, Tuticorin to the file of the Family Court, Madurai and for joint trial within a specified time limit as prescribed by this Court.

2. The petitioner averred that the marriage between the petitioner and the respondent was solemnized on 16.02.2011 at Arulmigu Meenakshi Chokkanathar Temple at Aruppukkottai, Chokkalingapuram, as per the Hindu customs. At the time of the marriage, 32 sovereign of gold ornaments were gifted to the petitioner as 'Sridanam' and out of which 22 sovereign of gold ornaments are with the respondent and a male baby was born on 18.01.2012 and the respondent never went to job and began to harass the petitioner and never took care of the child. The respondent assaulted the petitioner's father on 11.07.2011 and the complaint has been lodged before the All Women Police Station, Aruppukkottai. The respondent was also warned by the police. Due to the ill-treatment and continuous harassment, the petitioner was constrained to file a Petition seeking dissolution of the marriage solemnized on 16.02.2011 and the case is pending enquiry in H.M.O.P.No.150 of 2016 on the file of the Sub Judge, Tuticorin.

3. It is also stated by the petitioner that a petition in <https://hcservices.mca.gov.in/hcservices/> of 2016 is filed for appointing the petitioner as Guardian for the petitioner's child aged about 5 years and for the past two years she has been living at the above said address along



with the petitioner small kid and studying B.Ed at Thiagarajar College of Preceptors, Madurai and she do not have any financial resources except menial income through home tuition and the respondent has not taken any care of herself and her child.

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4. The learned counsel for the petitioner submitted that since the father of the petitioner was working at Tuticorin, she filed the above two petitions at Tuticorin and now he has been transferred and therefore, seeks for transfer to the file of the Family Court at Madurai.

5. It is further stated by the learned counsel for the petitioner that for each hearing the petitioner has to travel more than 400 Kms from Madurai to Tuticorin and she is facing untold difficulties and inconvenience and it is economically not feasible to the petitioner.

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. I am satisfied with the reasons stated in the affidavit filed in support of this petition and also in view of the above judgement, I am of the view that the petition filed by the wife is liable to be allowed with the following directions:

i) The learned Sub Judge, Tuticorin is directed to transmit the entire records in H.M.O.P.No.150 of 2016 to the file of the Family Court, Madurai, and the learned District Judge, Tuticorin is directed to transmit the entire records in G.W.OP.No.289 of 2016 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of copy of this order;

ii) the learned Judge, Family Court, Madurai, after obtaining the records on transfer, is directed to dispose of the matters as expeditiously as possible in accordance with law.

No costs.

Sd/-
Assistant Registrar(AE)

/True Copy/



To,

1.The Sub Judge, Tuticorin District.

2.The District Court, Tuticorin District.

3.The Family Court, Madurai.

TR.C.M.P. (MD) No.339 of 2017
16.08.2017

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JM/SV MMS/SAR 3/28.08.2017/3P/4C