



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.09.2017

CORAM

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THE HONOURABLE MRS.JUSTICE J. NISHA BANU**TR.C.M.P (MD)No.352 of 2017****and****C.M.P. (MD)No.7259 of 2017**

K.Inniya Ponmozhi

...Petitioner

Vs.

C.Vijayakumar

Represented by his father/

Agent Chidambaram

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.56 of 2017 on the file of the Sub-Court, Pudhukottai and transfer the same to the file of the Family Court, Tiruchirappalli.

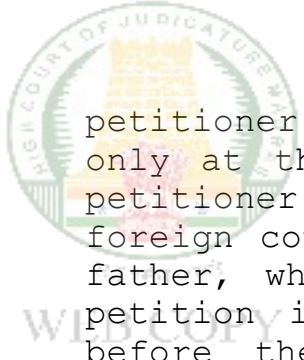
For Petitioner : Mr.B.Jeyakumar

For Respondent : Mr.M.Ramu

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.56 of 2017 from the file of the Sub-Court, Pudhukottai and transfer the same to the file of the Family Court, Tiruchirappalli.

2. The petitioner would aver among other things that the marriage between the petitioner and the respondent was solemnized on 23.08.2012. At the time of marriage, the parents of the petitioner offered 10 sovereigns of jewels and also gave household articles to the respondent and after the marriage, the petitioner was living with the respondent in her parental home. Thereafter, on 16.05.2013, she delivered a female baby, but even after three months, neither the respondent nor his parents visited the petitioner and her new born baby. Therefore, the petitioner along with her mother had gone to the house of the respondent, but the respondent did not show any interest towards the baby and at that time, the sister-in-law of the petitioner interfered and asked the respondent to accompany them to London and thereafter, the respondent did not communicate the petitioner and his whereabouts also was not known to the petitioner. Therefore, the



petitioner filed a Habeas Corpus Petition before this Court and only at the time of hearing in the Habeas Corpus Petition, the petitioner came to know that the respondent was working in the foreign country. The case was conducted through the respondent's father, who appeared as a Power of Attorney and also a divorce petition in H.M.O.P.No. 56 of 2017 is filed by the respondent before the Sub-Court, Pudhukottai, seeking divorce by making vexatious allegations against the petitioner and the same is pending.

3.The learned counsel for the petitioner would submit that the petitioner is under the care and custody of her parents, who are not in a sound financial position and she is also having a female child aged about four years and therefore, it is difficult for her to go and appear before the Sub-Court, PUdhukottai in H.M.O.P.No.56 of 2017 and therefore, prayed for transfer of the above case to the file of the Family Court Tiruchirappalli.

4.When the matter came up for hearing on 07.09.2017, considering the facts and circumstances of the case, this Court directed the parties to appear before this Court, for mediation. Since the respondent was in London he was permitted to appear through skype.

5. Today, the petitioner is present in person along with her child and the respondent appeared through skype and I have mediated the parties. But, the mediation could not succeed and the respondent refused to accept his wife and daughter and submitted that he has no objection for transfer of the case if a direction is issued for speedy disposal.

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

7.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 and the respondent has also no objection for transfer.

8. 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, Sub Court, Pudhukottai, is directed to transmit the entire records in H.M.O.P.No.56 of 2017 to the file of the Learned Judge, Family Court, Tiruchirappalli, within a period of two

weeks from the date of receipt of copy of this order.

ii) the Learned Judge, Family Court, Tiruchirappalli, after obtaining the records on transfer, is directed to dispose of both H.M.O.P.No.56 of 2017 as expeditiously as possible in accordance with law and at the time of trial, the respondent is directed to appear before the concerned Court.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Pudhukottai.

2. The Judge,
Family Court,
Tiruchirappalli.

+ 1 cc TO Mr.M.Ramu , Advocate in SR No. 78421

pm/vsg

AE/SKN RSK/SAR3/11.10.2017/3P/4C

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and
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