



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P (MD)No.380 of 2017

and

CMP. (MD)No.7817 of 2017

S.Kothai

...Petitioner

Vs.

Muthu Palaniappan Sundaram

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.133 of 2017 pending on the file of Sub Court, Tambaram, and transfer the same to Sub Court, Sivagangai.

For Petitioner : Mr.P.Andiraj

For Respondent : Mr.M.Mohamed Sha

ORDER

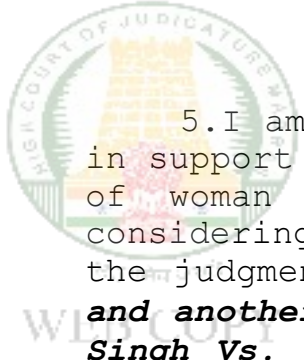
The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.133 of 2017 pending on the file of Sub Court, Tambaram, and transfer the same to Sub Court, Sivagangai.

2.The petitioner would among other things submit that the marriage between the petitioner and the respondent had taken place on 03.06.2009 and that the respondent has not treated the petitioner as a wife and put her so much of mental agony and there was no peace in the family of both the petitioner as well as the respondent and therefore, they filed a petition in HMOP.No.61 of 2017 for mutual consent under Section 13(b) of the Hindu Marriage Act, which is pending on the file of Subordinate Court, Sivagangai and the matter is posted on 26.10.2017 for hearing. Suddenly, the petitioner received a notice in HMOP.No.133 of 2017 on the file of Subordinate Court, Tambaram, filed by the respondent for restitution of conjugal rights, suppressing the earlier petition filed for mutual consent and that the distance between Sivagangai to Tambaram is around 450 kms and it is very difficult for the petitioner to travel for each and every hearing and therefore, sought for transfer.

3.The learned counsel for the respondent would submit that the respondent has no objection for transfer the HMOP.No.133 of 2017.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Heard the learned counsel for the petitioner and the learned counsel for the respondent.



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)**, it is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. I am also satisfied with the reasons stated in the affidavit filed in support of this petition.

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 Judge, Tambaram, is directed to transmit the entire records in HMOP.No.133 of 2017 to the file of the Sub Court, Sivagangai, within a period of two weeks from the date of receipt of copy of this order.

ii)Considering the submission made by the respondent, the learned Sub Judge, Sivagangai after obtaining the records on transfer, is directed to dispose of HMOP.No.133 of 2017 as expeditiously as possible in accordance with law, preferably within a period of six weeks from the date of receipt of the records.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge,
Tambaram.

2.The Subordinate Judge,
Sivagangai.

+1cc to Mr.P.ANDIRAJ Advocate in SR. No. 78239
RJ2
JS/KK/SAR.4/6.10.2017/2P-4C

TR.C.M.P(MD) No.380 of 2017
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