

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 19.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE J.NISHA BANU**Tr.C.M.P(MD)No.394 of 2017****and****C.M.P(MD)No.8025 of 2017**

V.Kasthuri

... Petitioner

Vs.

A.Senthil Kumar

... Respondent

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the H.M.O.P.No.77 of 2017 on the file of the Sub-Court, Aruppukkottai, Virudhunagar District to be tried before the Family Court, Tiruchirappalli, Tiruchirappalli District.

For Petitioner : Mr.A.Thiruvadikumar

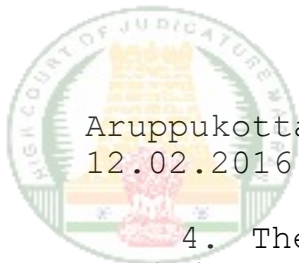
For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the H.M.O.P.No.77 of 2017 from the file of the Sub Court, Aruppukkottai, Virudhunagar District to the file of the Family Court, Tiruchirappalli, Tiruchirappalli District.

2. The petitioner would aver among other things that the marriage between the petitioner and the respondent was solemnized on 12.02.2016 as per the Hindu rites and customs. At the time of marriage, the parents of the petitioner offered 15 sovereigns of gold jewels. After the marriage, the petitioner was put to mental harassment by the respondent demanding more dowry. The petitioner would further aver that though the respondent had disclosed his premarital affair with a girl by name Sneka, the petitioner did not give weightage to the said disclosure.

3. The petitioner would further aver that the petitioner is working as Havildar Clerk in the Indian Army and he is having intimacy with a lady, who is working in the State Bank at Lucknow and he is spending lavishly for her and therefore, the petitioner was put to mental and physical harassment by the respondent. In addition to that the respondent and his family members had been abusing the petitioner from the year 2016 and therefore, the petitioner was made to stay in her parental home. The steps taken for the reunion turned futile. When the matter stood thus, the respondent filed H.M.O.P.No.77 of 2017 before the Sub-Court,



Aruppukottai, Virudhunagar District to declare the marriage dated 12.02.2016 as nullity and the said H.M.O.P., is pending.

4. The learned counsel for the petitioner submitted that the petitioner is residing along with her parents at Trichirappalli and she is working as an Assistant Professor at M.A.R. College of Engineering Technology, Boothakudi, Pudukkottai and the petitioner has to travel nearly 300 kms, to and fro, to attend the hearing at Sub-Court, Aruppukottai, Virudhunagar District and being a lady, the petitioner is depending on her family members to accompany her to go to Aruppukottai and therefore, she finds it difficult to go to Aruppukottai to attend the hearings and therefore, she prayed for transfer of the said case to the Family Court, Tiruchirappalli, Tiruchirappalli District.

5. Heard the learned counsel appearing for the petitioner. Though notice has been served on the respondent, he has neither appeared in person nor through counsel.

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. In view of the above judgement and also taking into consideration of the fact that the respondent has also not chosen to appear before this Court, this Court is of the view that the petition filed by the wife is liable to be allowed.

8. In the result, this Transfer Civil Miscellaneous Petition is allowed with the following directions:

i) The learned Sub-Judge, Aruppukottai, Virudhunagar District, is directed to transmit the entire records in H.M.O.P.No.77 of 2017 to the file of the Family Court, Tiruchirappalli, Tiruchirappalli District, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Judge, Family Court, Tiruchirappalli, Tiruchirappalli District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.77 of 2017 as expeditiously as possible in accordance with law.

No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/



To

1.The Subordinate Judge,
Aruppukkottai, Virudhunagar District.

2.The Judge,
Family Court, Tiruchirappalli,
Tiruchirappalli District.

+1cc to Mr.A.THIRUVADI KUMAR Advocate in SR. No. 80091

PM

JS/SKN.RSK/SAR.2/3.10.2017/3P-4C

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and
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