



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :19.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P(MD)No.395 of 2017

and

C.M.P(MD)No.8027 of 2017

M.Geetha

... Petitioner/Respondent

Vs.

P.Asokan

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the case in H.M.O.P.No.108 of 2017 on the file of the Sub-Court, Uthamapalayam, Theni District to the file of the Principal Sub-Court, Tiruppur, Tiruppur District.

For Petitioner : Mr.Ananth C.Rajesh

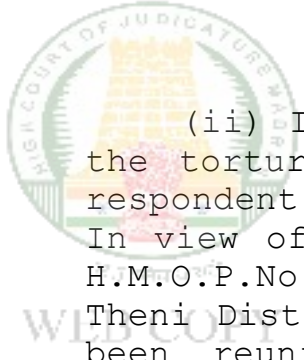
For Respondent : No Appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.108 of 2017 from the file of the Sub-Court, Uthamapalayam, and to transfer the same to the file of the Principal Sub-Court, Tiruppur, Tiruppur District.

2.The 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 01.06.2012. At the time of marriage, the parents of the petitioner offered 40 sovereigns of jewels, cash of Rs.2 lakhs and also gave household articles worth about Rs.1,50,000/- to the respondent, as Sridhana properties. After marriage, the petitioner lived at Palani along with the respondent for a period of three months. The petitioner was employed in State Bank of India, Ottanchatram. After six months of her pregnancy, the petitioner returned to her parents home for the safe delivery of her first child. When the matter stood thus, due to misunderstanding, the respondent refused to take back the petitioner. Thereafter, at the intervention of the elders, the petitioner and the respondent joined together and started life at Ottanchatram. Subsequently, the respondent deserted the petitioner and the child. Hence, the petitioner was forced to come back to her parental home at Madurai.



(ii) It is the further case of the petitioner that because of the torture, the petitioner gave a police complaint against the respondent and his family members and the same was charge sheeted. In view of the above, the respondent filed a divorce petition in H.M.O.P.No.73 of 2014 on the file of the Sub-Court, Uthamapalayam, Theni District. Once again, the elders intervened and they have been reunited and therefore, the petitioner not pressed the H.M.O.P.No.73 of 2014 and the criminal case was also closed. Thereafter, the petitioner blessed with another child and after the delivery, the respondent made a physical assault on the petitioner and subsequently, he voluntarily left the matrimonial home and started to live in a mansion at Palani. Thereafter, the respondent used to visit the working place of the petitioner and scolded her by using filthy language. In view of the same, the petitioner was transferred from Palani to Udumalpet.

(iii) Thereafter, the respondent filed the H.M.O.P.No.108 of 2017 on the file of the Sub-Court, Uthamapalayam and sent notice to the working place of the petitioner and the said H.M.O.P is pending. Hence, the petitioner has come forward with the present transfer petition.

3. The learned counsel for the petitioner submitted that the petitioner is working at Udumalpet and she is residing at Tiruppur, along with her two children and Triuppur is 220 Kms away from Uthamapalayam and therefore, it is difficult for her to go and attend the hearing in the Court at Uthamapalayam without the help of others. Therefore, she prayed for transfer of H.M.O.P.No.108 2017 on the file of the Sub-Court, Uthamapalayam, to the file of the Principal Sub-Court, Tiruppur, Tiruppur District.

4. 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.

5. 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)**.

6. 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, I am of the view that the petition filed by the wife is liable to be allowed.

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



i) The learned Subordinate Judge, Uthamapalayam, Theni District, is directed to transmit the entire records in H.M.O.P.No.108 of 2017 to the file of the Principal Sub-Court, Tiruppur, Tiruppur District, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Judge, Principal Sub-Court, Tiruppur, Tiruppur District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.108 of 2017 as expeditiously as possible in accordance with law.

No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Judge,
Uthamapalayam,
Theni District.
2. The Principal Sub Judge,
Principal Sub-Court,
Tiruppur,
Tiruppur District.

+1cc to Mr.Ananth C.Rajesh, Advocate Sr.No.79788

PM

VB/MR/KKR/SAR4/03/10/2017/3P/4C

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