



WEB COPY

**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.403 of 2017**

**and**

**C.M.P (MD) No.8158 of 2017**

Vidhyashree

...Petitioner/Respondent

Vs.

Hari Prakash

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Civil Procedure Code to withdraw the case on the file of the learned Family Court Judge, Madurai in H.M.O.P. No.450 of 2017 and transfer the same to the learned Subordinate Judge, Ramanathapuram to try along with the case in H.M.O.P. No.91 of 2017.

For Petitioner : Mr.S.Deenadhayalan

For Respondent : Mrs.Chamundi Bose

**ORDER**

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw the case on the file of the learned Family Court Judge, Madurai in H.M.O.P. No.450 of 2017 and transfer the same to the learned Subordinate Judge, Ramanathapuram to try along with the case in H.M.O.P. No.91 of 2017.

2.The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 14.02.2016 as per Hindu rites and rituals at Madurai. Subsequently, the petitioner has been undergone cruelty in the hands of the respondent as well as his parents. In August 2016, under the pretext of false hope and at the instance of the respondent, the petitioner returned to her parental home and subsequently, the respondent's family members avoided her and she was forced to stay at her parental house at Ramanathapuram.

3. The learned Counsel further submitted that the petitioner filed H.M.O.P.No.91 of 2017 before the learned Subordinate Court, Ramanathapuram praying for the relief of restitution of conjugal rights. Since the petitioner filed a petition for restitution of conjugal rights, the respondent filed H.M.O.P.No.450 of 2017 before the Family Court, Madurai praying for divorce, only in order to harass the petitioner.

4. The learned Counsel for the petitioner further submitted that it is very difficult for the petitioner to travel merely 110 km from Ramanathapuram to Madurai to attend every hearing and she is depending upon her old age parents. Hence, he seeks transfer of the case from Madurai to Ramanathapuram.



5. The learned Counsel for the respondent has no objection for transfer of the case, however he prays that the case may be transferred to any other Court other than Ramanathapuram.

6. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondent.

7. This Court is not inclined to accept the contention made by the learned Counsel for the respondent. 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)**. I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Judge, Family Court, Madurai is directed to transmit the entire records in H.M.O.P.No.450 of 2017 and transfer the same to the learned Subordinate Judge, Ramanathapuram within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Subordinate Judge, Ramanathapuram, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.450 of 2017 as expeditiously as possible.

No costs. Consequently, connected C.M.P.(MD) No. 8158 of 2017 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Family Judge, Madurai.
2. The Subordinate Judge, Ramanathapuram.

+1cc to Mrs.Chamundi Bose, Advocate Sr.No.79764

+1cc to Mr.S.Deenadhayan, Advocate Sr.No.79616

SSL/VSG

VB/MR/KKR/SAR1/25/09/2017/2P/5C

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and**

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