



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2017

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P. (MD) No.413 of 2017andC.M.P. (MD) No.8332 of 2017

Sofia @ Santhanarani

...Petitioner/Respondent

Vs.

Regis Chellakumar

...Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 read with 151 of C.P.C., to withdraw the case in I.D.O.P. No.41 of 2017 from the file of the Family Court, Madurai and transfer the same to the file of the Sub-Court, Tambaram, for disposal of the same on merits in accordance with law.

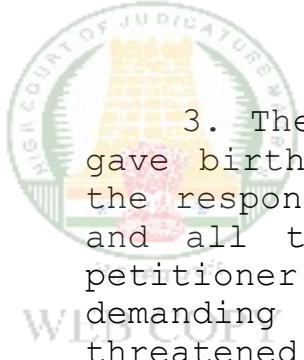
For Appellant : Mr.R.Gandhi

For Respondent : Mr.K.Sivaraj

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking transfer of I.D.O.P. No.41 of 2017 from the file of the Family Court, Madurai to the file of the Sub-Court, Tambaram District.

2.The petitioner would among other things aver that the marriage between the petitioner and the respondent was solemnized on 15.11.2013 and the same was registered before the Sub-Registrar Office, Arasaradi Madurai. At the time of marriage, the respondent was working at Chennai and they have started their matrimonial life at Chennai. After sometime, the respondent started ill-treating the petitioner and harassed her demanding more dowry. Because of that, difference of opinion arose between them. While the matter stood thus, the respondent had demanded a plot from the petitioner's father, who is leading his retirement life from and out of his savings. Therefore, the petitioner's father gave a sum of Rs.6 lakhs to the respondent through a cheque. Subsequently, the respondent has transferred the same to HDFC Bank and a house was purchased in the name of the petitioner as well as the respondent. Subsequently, the respondent has not paid the monthly installments regularly and therefore, the petitioner is forced to pay the sum as and when demanded by the respondent.



3. The petitioner would further aver that on 18.09.2016, she gave birth to a female baby in her parental home. Subsequently, the respondent had never turned up even to see the new born baby and all the expenditures were met out by the parents of the petitioner. Moreover, the respondent harassed the petitioner demanding not to have any relationship with her relatives and threatened her. Thereafter, the respondent filed the I.D.O.P.No.41 of 2017 on the file of the Family Court, Madurai, for restitution of conjugal rights and the same is pending.

4. The learned counsel appearing for the petitioner submitted that even though the petitioner was working at Chennai and the petitioner is also residing at Chennai, only to harass the petitioner, the respondent has filed the above said case before the Family Court, Madurai. He further submitted that the petitioner being a lady, finds it difficult to travel from Chennai to Madurai to attend the hearing before the Family Court, Madurai and therefore, she prayed for transfer of the above said case to the file of the Sub-Court, Tambaram.

5. The learned counsel appearing for the respondent submitted that as the respondent has filed a petition for restitution of conjugal rights, if the matter is referred for mediation, there is possibility of amicable settlement between the parties.

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

7. It is seen that both the petitioner as well as the respondent are residing at Chennai and therefore, this Court feels that ends of justice would be met, if the case is transferred to Chennai,

8. 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).

9. I am satisfied with the reasons stated in the affidavit filed in support of this petition and also in view of the above judgments, I am of the view that the petition filed by the wife is liable to be allowed with the following directions:

- i) The learned Judge, Family Court, Madurai, is directed to transmit the entire records in I.D.O.P. No.41 of 2017 to the file of the Sub-Court, Tambaram, within a period of two weeks from the date of receipt of copy of this order.



ii) the learned Judge, Sub-Court, Tambaram, after obtaining the records on transfer, is directed to dispose of the matter as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.8332 of 2017 is closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To,

1.The Judge,
Family Court, Madurai

2.The Sub-Judge,
Tambaram.

+1cc to M/S.R.Gandhi, Advocate SR.No. 80077

TR.C.M.P.(MD)No.413 of 2017
and C.M.P.(MD)No.8332 of 2017
20.09.2017

pm/das

JM/KP/SAR 2/23.10.2017/3P/4C