



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **06.03.2017**

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.6 of 2017
and
C.M.P(MD)No.346 of 2017

Nirmala Devi @ Nirmala ...Petitioner/Respondent

Vs.

K. Shanmugam @ Samuel ...Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case F.C.I.D.O.P.No.154 of 2016 in I.D.O.P.No.178 of 2014, on the file of the Family Court, Chengalpattu and transfer the same to the District Court, Karur to try along with I.D.O.P NO.9/2016.

For Petitioner : Mr.V.NAGARAJAN

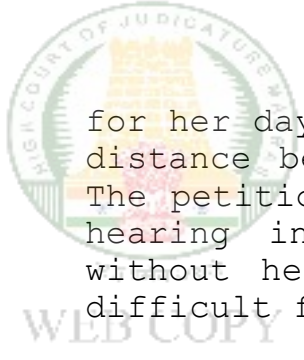
For Respondent : Mr.BTamil Nidhi

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw F.C.I.D.O.P.No.154 of 2016 in I.D.O.P.No.178 of 2014, pending on the file of the Family Court, Chengalpattu, and transfer the same to the District Court, Karur.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 18.01.2011 as per Christian Rites and Customs. After the marriage, both were living together in the matrimonial home at West Tambaram. Two children were born in the wedlock. The respondent is running a Bus Body Building Coach under the name and style of "Joy Coach" at Karur. Due to misunderstanding between the petitioner and the respondent, the respondent thrown out the petitioner from the matrimonial home and both were living separately. The respondent filed I.D.O.P.No.178 of 2014 before the District Court, Chengalpattu for divorce and it is transferred to Family Court, Chengalpattu and numbered as F.C.I.D.O.P.No.154 of 2016. The petitioner filed I.D.O.P.No.9 of 2016 before the District Court, Karur for Restitution of Conjugal Rights.

3.According to the petitioner, she is residing at Karur along with her aged parents along with two minor children. She is not having any independent income and she is depending on her parents



for her day-to-day expenses, including the travelling expenses. The distance between the Chengalpattu and Karur is more than 700 kms. The petitioner, being a lady, finds it very difficult to attend the hearing in the Court at Chengalpattu along with her children, without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Karur.

4. In the above circumstances, the petitioner filed the petition to transfer the aforesaid F.C.I.D.O.P.No.154 of 2016 filed by the Husband before the Family Court, Chengalpattu to District Court, Karur to be tried along with I.D.O.P.No.9 of 2016 filed by wife.

5. The learned counsel appearing for the petitioner submitted that the petitioner is always ready and willing to live with her husband.

6. The learned counsel appearing for the respondent filed counter and submitted that though the petitioner is now residing at Karur, she frequently changes her address from Karur to Chennai and filed various petitions. He further submitted that the petitioner already filed Tr.C.M.P(MD)No.567 of 2016 before the Principal Bench of this Court to transfer the F.C.I.D.O.P.No.154 of 2016 from the file of Family Court, Chengalpattu to District Court, Karur and subsequently, she withdrew the petition.

7. It is well settled law that whenever, the transfer petition 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)**. In the present case, the petitioner has given valid reasons for transferring the F.C.I.D.O.P filed by the husband/respondent and for hearing the same together in order to avoid conflicting decisions. For the above reasons, the transfer civil miscellaneous Petition is liable to be allowed.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and F.C.I.D.O.P.No.154 of 2016, on the file of the Family Court, Chengalpattu, is hereby withdrawn and transferred to the file of the District Court, Karur, to be tried along with I.D.O.P.No.9 of 2016, if the same is not yet disposed of. The learned Family Court Judge, Chengalpattu, is directed to send the case bundles to the District Court, Karur, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(C)

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

Sub-Assistant Registrar



To

1. The Presidency Judge,
The Family Court,
Chengalpattu.

2. The District Judge,
Karur.

COPY TO
THE SECTION OFFICER,
V.R. SECTION
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1 cc to MR. B. TAMILNIDHI, ADVOCATE, SR NO. 12687

+1 CC TO MR. V. SITHARANJANDAS, ADVOCATE, SR NO. 12657

am/sss
MAS/SKN-RSK:21.03.2017:3P-6C

TR.C.M.P (MD) No. 6 of 2017
06.03.2017