

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

DATED : 30.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**TR. C.M.P(MD).No.7 of 2017****and****C.M.P(MD)No.356 of 2017**

K.Bakiyam

...Petitioner/Respondent

Vs.

P.Arun Kumar

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24(1)(2) of Civil Procedure Code to withdraw H.M.O.P. No.1023 of 2016, on the file of the Principal Family Court, Coimbatore and transfer to the Subordinate Court, Theni.

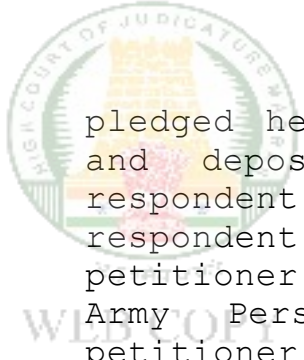
For Petitioner : Mr.A.Hajamohideen
For Respondent : Mr.K.Guhan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.1023 of 2016, from the file of the Principal Family Court, Coimbatore to the file of the Subordinate Court, Theni.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 26.11.2012 at ARS Marriage Hall at Ondiputur as per Hindu Caste and Customs. At the time of marriage, the petitioner's parent presented 23 Sovereigns of gold to her and 2 ½ sovereign to the respondent with all other household articles. After the marriage, the petitioner was residing in the respondent's house at Patiala, Punjab. The respondent is working in Indian Army, at Patiala Unit of Punjab State and at presently working in R.R. Section of Indian Army. Thereafter, the petitioner started to reside in a quarters allotted in Patiala, at Punjab from 14.02.2013, where she became pregnant.

3. The learned Counsel for the petitioner further submitted that from the date of marriage, the respondent and his parents showed hostile attitude towards the petitioner. The petitioner



pledged her entire jewels in Indian Bank, Bodinayakanoor Branch and deposited the entire amount of Rs.2,28,400/- to the respondent's account. Even after receiving the amount, the respondent has not stopped his illegal demands. Hence, the petitioner was forced to send a petition to the employer and the Army Persons Wife Welfare Association. According to the petitioner, in order to save her life, she left the matrimonial home from Patiala, Punjab, in the month of March 2016. While so, the respondent filed a petition in H.M.O.P. No.1023 of 2016 on the file of the Principal Family Court, Coimbatore, seeking restitution of conjugal rights.

4. The learned Counsel for the petitioner would further submit that the petitioner had no means to lead her life and therefore, she filed a maintenance petition before the Judicial Magistrate, Bodinayakanoor. The learned Counsel for the petitioner would further submit that the petitioner does not have much finance to meet out the travel expenses from Bodinayakanoor to Coimbatore for attending each and every hearing and she is depending upon her parents and it is also difficult for her to travel along with her female child. Hence, the petitioner prays for transfer of the petition filed by the respondent from the file of the Principal Family Court, Coimbatore to the file of the Subordinate Court, Theni.

5. Considering the facts and circumstances of the case, the matter was posted for mediation. I have mediated the matter and found that there could not be any amicable settlement.

6. The learned Counsel for the respondent has no objection for transfer of the case, however he prays for a direction to the trial Court for earlier disposal of the petition.

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

8. 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, Principal Family Court, Coimbatore is directed to transmit the entire records in H.M.O.P.No.1023 of 2016 to the file of the Subordinate Court, Theni within a period of two weeks from the date of receipt of copy of this order.



ii) the learned Subordinate Judge, Theni after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.1023 of 2016 within a period of three months thereafter.

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No costs. Consequently, connected C.M.P.(MD) No.356 of 2017 is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Family Court, Coimbatore.
2. The Subordinate Court, Theni.

+1cc to M/S. A.HAJA MOHIDEEN, Advocate, SR.No.75475.
+1cc to M/S. K.GUHAN, Advocate, SR.No.75467.

TR C.M.P(MD) .No.7 of 2017
30.08.2017

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