



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.03.2017

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.556 of 2016

and

C.M.P (MD) No.11768 of 2016

A.R.Kavitha

.. Petitioner/Respondent

Vs.

P.Kamaraj

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.278 of 2016, on the file of Principal Sub Judge, Trichy and to transfer the same to the file of Sub Court, Karur.

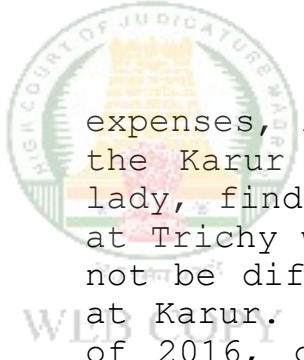
For Petitioner : Mr.S.Gokulraj
For Respondent : Mr.K.Sivabalan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.278 of 2016, pending on the file of the Principal Sub Court, Trichy and transfer the same to the Sub 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 22.02.2009 as per Hindu Rites and Customs at J.B.Mahal, Thiruvellarai, Manachanallur, Trichy District. After the marriage, both were living together in the matrimonial home at Thiruvellarai, Manachanallur, Trichy District. A male child was born in the wedlock. Due to misunderstanding between the petitioner and the respondent, both were living separately. The petitioner sent representation to the Social Welfare Officer, Karur on 11.07.2016. After enquiry, the same was referred to Judicial Magistrate No.I, Karur and numbered as D.V.O.P.No.24 of 2016. On coming to know the D.V.O.P.No.24 of 2016, the respondent filed H.M.O.P.No.278 of 2016 for Restitution of Conjugal Rights before the Principal Sub Court, Trichy by making false averments against the petitioner.

3.According to the petitioner, she is residing at Karur along with her parents and her child. 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 Karur and Trichy is nearly 70 kms. The petitioner, being a lady, finds it very difficult to attend the hearing in the Court at Trichy without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Karur. Therefore, she prayed for transfer of H.M.O.P.No.278 of 2016, on the file of the Principal Sub Court, Trichy to Sub Court, Karur.

4. Heard the learned counsel appearing for the petitioner and the respondent.

5. The learned counsel appearing for the respondent opposed the Tr.C.M.P.,

6. It is well settled law that whenever, the 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)**. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.278 of 2016, on the file of the Principal Sub Court, Trichy, is hereby withdrawn and transferred to the file of the Sub Court, Karur. The learned Principal Sub Judge, Trichy, is directed to send the case bundles to the Sub Court, Karur, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, C.M.P(MD)No.11768 of 2016 is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge, Trichy,
2. The Subordinate Judge, Karur.

+1 cc to MR.S.GOKULRAJ, Advocate SR.No.12725
+1 cc to MR.K.SIVABALAN, Advocate SR.No.13316

TR.C.M.P(MD)No.556 of 2016
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