



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2017

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CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.568 of 2016

and

C.M.P(MD)No.11975 of 2016

U.M.Thilagam

... Petitioner/Respondent

Vs.

K.Vijay

... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the case in M.O.P.No.465 of 2016 pending on the file of Family Court, Pondicherry and transfer the same to the file of the Family Court, Madurai and to try along with H.M.O.P.No.956 of 2016 pending on the file of the Family Court, Madurai.

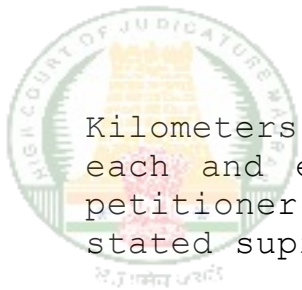
For Petitioner : Mr. C.Muthusaranvan

For Respondent : Mr. M.R.Sreenivasan

ORDER

The petitioner/wife has come before this Court seeking to withdraw the case in M.O.P.No.465 of 2016 pending on the file of Family Court, Pondicherry and transfer the same to the file of the Family Court, Madurai, to try along with H.M.O.P.No.956 of 2016 pending on the file of the Family Court, Madurai.

2. The petitioner/wife and the respondent/husband got married on 22.05.2015 as per Hindu Rites and Customs. After the marriage, both were living together as husband and wife in the matrimonial home. One male child was born in the wedlock. Due to misunderstanding, they are living separately. The respondent filed M.O.P.No.465 of 2016 before the Family Court, Pondicherry, for dissolution of marriage. While so, the petitioner filed H.M.O.P.No.956 of 2016 before the Family Court, Madurai, for restitution of conjugal rights. The petitioner/wife is residing with her parents and along with her child at Madurai. The distance between Madurai and Pondicherry is more than 400



Kilometers and there is no male assistance to accompany her for each and every hearing of the case at Pondicherry. Hence, the petitioner has come out with the present petition for the relief stated supra.

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3. Heard the learned counsel for the petitioner.

4. The learned counsel for the respondent submitted that the respondent is working in H.C.L. Company at Chennai, and he has objection to transfer H.M.O.P.No.956 of 2016 on the file of the Family Court, Madurai, and M.O.P.No.465 of 2016, on the file of the Family Court, Pondicherry, to the file of the Principal Subordinate Court, Madurai.

5. 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]**. Further, the petitioner has also given valid and sufficient reasons to transfer the case in M.O.P.No.465 of 2016 from the file of Family Court, Pondicherry, to the file of Family Court, Madurai. H.M.O.P.No.956 of 2016 filed by the petitioner is pending before the Family Court, Madurai. Taking into consideration this fact and for convenience of both parties and to avoid conflicting decisions, both M.O.P.No.465 of 2016 pending on the file of the Family Court, Pondicherry, and H.M.O.P.No.956 of 2016, pending on the file of the Family Court, Madurai, are to be tried together in the same Court, for joint trial.

6. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of and M.O.P.No.465 of 2016 pending on the file of the Family Court, Pondicherry and H.M.O.P.No.956 of 2016, pending on the file of the Family Court, Madurai, are hereby withdrawn and transferred to the file of Principal Subordinate Court, Madurai, for joint trial. The learned Judge, Family Court, Pondicherry and the learned Judge, Family Court, Madurai, are directed to send the case bundles to the Principal Subordinate Court, Madurai, immediately. The learned Principal Subordinate Judge, Madurai, is directed to dispose of both the cases, as expeditiously as possible, in any event, not later than 31.08.2017. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar



To

1.The Judge, Family Court, Pondicherry.

2.The Judge, Family Court, Madurai.

3.The Principal Subordinate Judge, Madurai.

+1cc to Mr.C.Muthusaranvan, Advocate Sr.No.16409

+1cc to Mr.M.R.Sreenivasan, Advocate Sr.No.16664

+1cc to Mr.C.Muthusaranvan, Advocate Sr.No.2190

SSS

VB/JC/06.04.2017/3P/7C

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