



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.03.2017

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.581 of 2016

and

C.M.P (MD) No.12256 of 2016

V.Ramya Laxmi

...Petitioner/Respondent

Vs.

R.Kishore Kannan

...Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the H.M.O.P.No.216 of 2016, on the file of the Sub Court, Theni to the Sub Court, Sivakasi.

For Petitioner : Mr.S.Kadarkarai

For Respondent : Mr.K.Appadurai

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.216 of 2016, pending on the file of the Sub Court, Theni and transfer the same to the Sub Court, Sivakasi.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 22.11.2013 at Sri Annapparaja Marriage Hall, NRT Nagar, Theni District, as per Hindu Rites and Customs. After the marriage, both were living together in the matrimonial home. One male child was born in the wedlock. 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 H.M.O.P.No.216 of 2016 before the Sub Court, Theni, for divorce.

3.According to the petitioner, she is residing at Sivakasi along with her aged 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 traveling expenses. The distance between the Sivakasi and Theni is more than 100 kms. The petitioner, being a lady, finds it very difficult to attend the ~~services~~ court at Theni without help of others. She has also stated that it will not be difficult for the respondent/husband to



attend the hearing at Sivakasi. Therefore, she prayed for transfer H.M.O.P.No.216 of 2016, on the file of the Sub Court, Theni, to the Sub Court, Sivakasi.

4. Heard the learned counsel appearing for the petitioner.

5. The learned counsel appearing for the respondent has opposed the transfer Civil Miscellaneous Petition.

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.216 of 2016, on the file of the Sub Court, Theni, is hereby withdrawn and transferred to the file of the Sub Court, Sivakasi. The learned Sub Judge, Theni, is directed to send the case bundles to the Sub Court, Sivakasi, 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.12256 of 2016 is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Theni.
2. The Subordinate Judge, Sivakasi.

+1 cc to MR.K.Appadurai, ADVOCATE, SR No. 12897

+1 cc to MR.S.Kadarkarai, ADVOCATE, SR No. 13108

TR.C.M.P(MD)No.581 of 2016
07.03.2017

am/sss

MKV-SV-MMS/21.3.2017/2P-5C