



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.12 of 2018

and

C.M.P(MD)No.299 of 2018

Subasri

... Petitioner/Respondent

Vs.

Narayanasamy

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw and transfer the case in H.M.O.P.No.106 of 2017 on the file of the Family Court, Dindigul to try along with H.M.O.P.No.97 of 2017 on the file of the Sub Court, Pudukottai.

For Petitioner : Mr.K.N.Govardhanan

For Respondent : Mr.A.Hariharan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.106 of 2017, from the file of the Family Court, Dindigul to the Sub Court, Pudukottai, so as to try the same along with H.M.O.P.No.97 of 2017.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 29.05.2015, at Maharaja Thirumanamahal, Pudukottai. After marriage, both of them lived happily for quite some period. Thereafter, according to the petitioner, the respondent started harassing and demanding dowry from the petitioner. Adding fuel to the same, she was driven away from the matrimonial home to her parental home at Pudukottai. As the petitioner's father had deserted the family when she was a child, now the petitioner is living with her mother. Thereafter, the petitioner has filed a maintenance petition in M.C.No.9 of 2016 before the Chief Judicial Magistrate Court, Pudukottai and D.V.No.23 of 2016 under Domestic Violence Act before the Judicial Magistrate Court, Pudukottai, followed by which, she has filed

H.M.O.P.No.97 of 2017 before the Sub Court, Pudukottai seeking the relief of Restitution of Conjugal Rights and both of them are said to be pending.

3. The learned Counsel for the petitioner would submit that in the mean time, the respondent has filed a petition in H.M.O.P.No.106 of 2017 seeking divorce before the Family Court, Dindigul. The learned Counsel for the petitioner would further submit that as the petitioner is residing at her parental home at Pudukottai, along with her mother, who is a sick woman suffering from many bodily ailments, it is very difficult for the petitioner to travel from Pudukottai to Dindigul for attending each and every hearing of the case in H.M.O.P.No.106 of 2017. Therefore, she has come forward with the present petition.

4. The learned Counsel for the respondent, on the other hand, stoutly refuted the allegations levelled against him and he would further submit that every time when the respondent appears before the Court proceedings for the maintenance case, he had been teased by the petitioner and her family. He would fairly submit that the respondent has no objections for transferring the case, however, he prays for early disposal of the H.M.O.P., proceedings.

5. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent and perused the materials available on record.

6. It is seen that the petitioner does not have a father and she is living with her mother, which is not disputed by the respondent/husband. It is also seen from the records that the petitioner/wife has filed the H.M.O.P., petition prior to that of the respondent/husband.

7. 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)**. Therefore, I am inclined to allow the present petition.

7. Accordingly, this petition is allowed with the following directions:

- The learned Judge, Family Court, Dindigul is directed to transmit the entire records in H.M.O.P.No.106 of 2017 to the file of the Sub Court, Pudukottai within a period of two weeks from the date of receipt of copy of this order.
- The learned Subordinate Judge, Pudukottai, after obtaining the records on transfer, is directed to try H.M.O.P.No.106 of 2017 along with H.M.O.P.No.97 of 2017 and dispose of the



same, within a period of six months thereafter, in accordance with law.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/True Copy/

Sub Assistant Registrar

To

1.The Family Court, Dindigul.

2.The Subordinate Court, Pudukottai.

+1cc to Mr.K.N.Govardhanan, Advocate Sr.No.52284

+1cc to Mr.A.Hariharan, Advocate Sr.No.52202

GK

VB/SKN/RSK/SAR4/22.03.2018/3P/5C

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