



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

Tr.C.M.P(MD).No.21 of 2018
and
C.M.P(MD)No.532 of 2018

V.Sundareswari ... Petitioner/Respondent

Vs.

D.Puvis Karur Mannan ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case in H.M.O.P.No.178 of 2017 on the file of the Sub Court, Uthamapalayam and to transfer the same to the file of the Sub Court, Ramanathapuram to be tried along with H.M.O.P.No.143 of 2017.

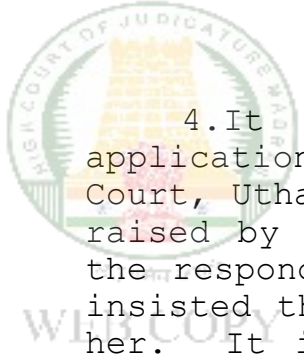
For Petitioner : Mr.D.Venkatesh
For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed, seeking transfer of a petition in H.M.O.P.No.178 of 2017 from the file of the Sub Court, Uthamapalayam to the file of the Sub Court, Ramanathapuram to be tried along with H.M.O.P.No.143 of 2017.

2.The learned counsel appearing for the petitioner submitted that the marriage between the petitioner and the respondent took place on 07.06.2015. According to the petitioner, the said marriage was a love marriage and he was working at Tiruppur. The petitioner initially residing at Tiruppur and thereafter, he was residing at Trichy. The respondent, after marriage, was working in Salem for 10 months and thereafter, joined in his earlier job at Tiruppur. Till February, 2017 they were living happily at Trichy and thereafter, the respondent did not come to Trichy for taking care of the petitioner.

3.The learned counsel appearing for the petitioner further submitted that due to ill advice of the respondent's parents, he avoided the petitioner. Therefore, the petitioner made a complaint before the All Woman Police Station, Thiruvadanai and the respondent undertook to take care of the petitioner, but failed to take any steps to take back her to matrimonial home. Therefore, the petitioner filed an application in H.M.O.P.No.143 of 2017 for restitution of conjugal rights before the Sub-Court, Ramanathapuram.



4.It is further contended that the respondent filed an application for divorce in H.M.O.P.No.178 of 2017 before the Sub-Court, Uthamapalayam with untenable allegations. The main contention raised by the petitioner is that the petitioner has not permitted the respondent to go for job at Salem or at Tiruppur, however, she insisted the respondent to come back to Trichy and live along with her. It is submitted that now the petitioner is living with her parents at Melapanaiyur Village. The respondent is living at U.Amapati Village, but he has filed the above said application for divorce at Uthamapalayam, only with a view to harass to the petitioner.

5.The learned counsel appearing for the petitioner would further submit that the petitioner has to travel for more than 200 kms and the application for restitution of conjugal right is pending before Sub-Court, Ramanathapuram, whereas, the application for divorce filed by the respondent is pending at Sub-Court, Uthamapalayam. Therefore, the petitioner will be put to irreparable loss and hardship. Hence, the petitioner prays for transferring the case from the file of the Sub-Court, Uthamapalayam to the file of the Sub-Court, Ramanathapuram.

6.Without advertting to the merits of case, 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) and therefore, I am inclined to allow the present petition.

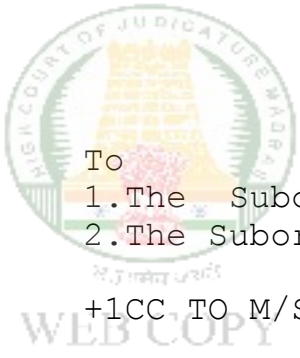
7. Accordingly, this petition is allowed with the following directions:

- The learned Judge, Sub-Court, Uthamapalayam is directed to transmit the entire records in H.M.O.P.No.178 of 2017 to the file of the Sub-Court, Ramanathapuram within a period of two weeks from the date of receipt of copy of this order.
- The learned Subordinate Judge, Ramanathapuram, after obtaining the records on transfer, is directed to try H.M.O.P.No.178 of 2017 along with H.M.O.P.No.143 of 2017 and dispose of the same, within a period of six months thereafter, in accordance with law.

8.No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True copy/



To

- 1.The Subordinate Judge, Uthamapalayam.
- 2.The Subordinate Judge, Ramanathapuram.

+1CC TO M/S.D.VENKATESH, ADVOCATE, SR NO.53843

Tr.C.M.P (MD) .No.21 of 2018
08.03.2018

gns

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