



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2018

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WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**TR.C.M.P(MD)No.77 of 2018 and
C.M.P(MD)No.1836 of 2018**

S. Usha Devi

...Petitioner

Vs.

P. Sellaiah @ Selvan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in HMOP.No.194 of 2017 pending on the file of the learned Sub-Judge, Uthamapalayam, Theni District and to transfer the same to the learned Judge, Family Court, Madurai.

For Petitioner : Mr. J. William Christopher

For Respondent : Mr. I. Pinaygash

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP.No.194 of 2017 pending on the file of the learned Sub-Judge, Uthamapalayam, Theni District and to transfer the same to the learned Judge, Family Court, Madurai.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.11.2008, as per Hindu Rites and Customs. Two children were born through the wedlock. Due to misunderstanding between the petitioner and the respondent, the petitioner was sent out from matrimonial home. Thereafter, the respondent filed HMOP.No.194 of 2017, before the Sub Court, Uthamapalayam, for divorce.

3. Today, the learned counsel appearing for the respondent filed additional typed-set of papers, in which, it is stated that the dispute between the petitioner and the respondent has already been settled. Even then, a case has been filed by the respondent / husband for divorce.



4. Since the petitioner is the wife and she is having two children, this Court is inclined to allow this Transfer Civil Miscellaneous Petition, based on the Judgments of the Hon'ble Supreme Court 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)**. Accordingly, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

i) The learned Subordinate Judge, Uthamapalayam, Theni District is directed to transmit the entire records pertaining to the case in H.M.O.P.No.194 of 2017 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of a copy of this order.

ii) The learned Judge, Family Court, Madurai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.194 of 2017 as expeditiously as possible, more particularly, within a period of four weeks, on day-to-day basis, without giving any further adjournment.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Sub-Judge,
Uthamapalayam, Theni District.

2.The Judge, Family Court, Madurai,

+1 cc to M/S.MR.I.Pinaygash, Advocate IN SR No.64436

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trp

PK/SV-MMS/SAR-1/30.05.2018 : 2P/4C