



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

TR. C.M.P(MD).No. 172 of 2018

and

C.M.P(MD)No.4106 of 2018

K. Devika

...

Petitioner

Vs.

P. Manmathan @ Manmatharaja

...

Respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw the H.M.O.P. No.14 of 2018 on the file of the Sub-Court, Periyakulam and transfer to Family Court, Dindigul to try along with H.M.O.P. No.70 of 2018 on the file of the Family Court, Dindigul.

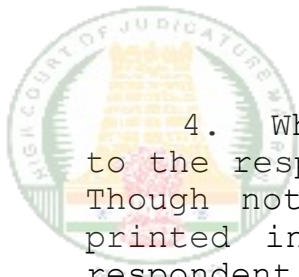
For Petitioner : Mr.V. Karuna
For Respondent : No appearance.

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.14 of 2018 on the file of the Sub-Court, Periyakulam and transfer to Family Court, Dindigul to try along with H.M.O.P. No.70 of 2018 on the file of the Family Court, Dindigul.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 14.11.2013 at Sri Ganesh Thirumana Mandapam, Periyakulam Road in Vathalagundu, Nilakottai Taluk, Dindigul District. After marriage, both of them lived happily in matrimonial abode and the petitioner became pregnant and subsequently Valaikappu was also celebrated. After that the petitioner went to parent's house, on 05.02.2015. She was blessed with a female child and her parents intimate the respondent through cell phone, but the respondent did not come to take the petitioner and the child. Thereafter, the petitioner lived with her parents. However, the respondent demanded more dowry for his self business.

3. In the meantime, the respondent filed a petition in H.M.O.P No.14 of 2018 seeking divorce before the Sub-Court, Periyakulam. The petitioner also filed a petition in H.M.O.P. No.70 of 2018 for restitution of conjugal rights before the Family Court, Dindigul. He would further contend that it is very difficult for the petitioner to travel with her three years old baby from Dindigul to Periyakulam for attending each and every hearing of the case. Therefore, she has come forward with the present petition for transfer.



4. When this matter came up for admission, notice was ordered to the respondent and the case was posted today i.e., on 08.06.2018. Though notice was issued to the respondent and his name is also printed in the cause list, there was no representation for the respondent.

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

6. Being satisfied with the reasons stated in the affidavit filed in support of this petition, as well as considering the well settled law that convenience of woman has to be taken into consideration at the time of considering transfer applications as held by the Hon'ble Supreme Court in the judgment reported in 2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta), I am inclined to allow the present petition.

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

(i) The learned Sub-Judge, Periyakulam, is directed to transmit the entire records in H.M.O.P.No.14 of 2018 to the file of the Family Court, Dindigul within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Judge, Family Court, Dindigul after obtaining the records on transfer, is directed to try along with H.M.O.P.No.70 of 2018 and dispose of both the HMOPs, within a period of four months thereafter, in accordance with law.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Judge,
Periyakulam.

2. The Judge,
Family Court,
Dindigul.

+1CC to Mr.V. Karuna, Advocate, SR.No.67410

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