



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.02.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.122 of 2015

and

M.P(MD)No.1 of 2015

Dr.G.Jeevitha

.. Petitioner/Respondent

Vs.

C.Neelaamegam

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw all the proceedings now pending in H.M.O.P.No.206 of 2014 on the file of the Sub-Court, Dindigul and transfer the same to the file of Sub-Judge, Udumalpet.

For Petitioner : Mr.S.Karthik

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.206 of 2014, on the file of the Sub-Court, Dindigul and transfer the same to the file of Sub-Court, Udumalpet.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 03.09.2008 as per the Hindu rites and customs. After the marriage, both were lived in the matrimonial home at Bangalore. One male child was born in the wedlock on 15.07.2010. The respondent and his family members ill-treated the petitioner by demanding more dowry and thrown out the petitioner and her child and she in her parent house at Gandhipuram, Udumalpet alongwith minor child. The petitioner filed H.M.O.P.No.27 of 2014 for Restitution of Conjugal Rights before the Sub Court, Udumalpet. The respondent filed H.M.O.P.No.206 of 2014 for divorce, before the Sub Court, Dindigul.

3.Now, the petitioner is residing with her parents along with her child at Udumalpet. The distance between the Udumalpet and Dindigul is 80 kms. She is finding it very difficult to travel from Udumalpet to Dindigul along with her child without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Udumalpet. She is not having any independent income and she is depending on her parents for her day to day expenses including travel expenses. The respondent is working as software Engineer in Bangalore and receiving a sum of Rs.1,30,000/- per month as salary, but he did not take care of them. Hence, the petitioner filed M.C.No.9 of 2014 for maintenance before the Judicial Magistrate, Udumalpet.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Now, the petitioner/wife filed this petition to transfer the aforesaid H.M.O.P.No.206 of 2014, filed by the respondent/Husband before



the Sub Court, Dindigul and transfer the same to the file of Sub Court, Udumalpet to be tried along with H.M.O.P.No.27 of 2014.

5. Heard the learned counsel appearing for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through Counsel.

6. In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both H.M.O.P.No.206 of 2014 and H.M.O.P.No.27 of 2014 is to be tried together in the same Court.

7. 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, it will be in the interest of justice, in order to avoid conflicting decisions, the petition filed by the wife is liable to be allowed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.206 of 2014, on the file of the Sub Court, Dindigul, is hereby withdrawn and transferred to the file of the Sub Court Udumalpet, to be tried along with H.M.O.P.No.27 of 2014 filed by the petitioner, if the same is not yet disposed of. The learned Sub Judge, Dindigul, is directed to send the case bundles to the Sub Court, Udumalpet, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

1. The Subordinate Judge, The Sub Court, Dindigul.
2. The Sub-Judge, Udumalpet.

Copy to: The Section Officer,
Judicial Department,
Madurai Bench of Madras High court, Madurai

+1CC to Mr.S.Karthik, Advocate, SR.No. 10859

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