



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD).No.220 of 2018 and

C.M.P. (MD).No.5414 of 2018

WEB COPY

S.Kayalvizhi

... Petitioner

Vs.

K.Tamilselvan

... Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 C.P.C to order to withdraw the case in HMOP.No.903 of 2017 on the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Dindigul, Dindigul District.

For Petitioner : Mr.A. Alexander

For Respondent : No appearance

O R D E R

The Transfer Civil Miscellaneous Petition has been filed to withdraw the case in HMOP.No.903 of 2017 on the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Dindigul, Dindigul District.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 16.05.2013 as per Hindu Rites and Customs. A female child was born in the wedlock on 13.06.2016. Due to the mis-understanding between the petitioner and the respondent, the petitioner sent out from the matrimonial home. Thereafter, the respondent / husband filed HMOP.No.903 of 2017, before the Family Court, Madurai, for restitution of conjugal rights.

3. Now, the petitioner is residing at Dindigul District with her aged parents along with minor child. The distance between Dindigul and Madurai is approximately 75 kilometers and it is very difficult for the petitioner to travel each and every hearing to attend HMOP.No.903 of 2017, pending on the file of the Family Court, Madurai, along with her minor child. Further, there is no one to accompany with her to travel such a long distance to attend HMOP.No.903 of 2017, and the petitioner is not having any income. In the above circumstances, she filed the present Transfer Civil Miscellaneous Petition to transfer the HMOP.No.903 of 2017, pending on the file of the Family Court, Madurai to the Family Court, Dindigul.



4. Though the notice served on the respondent and his name is also printed in the cause list, there is no representation on behalf of the respondent.

5. It is well settled law that whenever, the transfer petition 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)**. In view of the above and also the submission made by learned counsel appearing for the respondent, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this Petition is allowed with the following directions:-

(a) The learned Judge, Family Court, Madurai, is directed to transmit the entire records pertaining to the case in HMOP.No.903 of 2017 to the Family Court, Dindigul, within a period of two weeks from the date of receipt of a copy of this order, if the same is not yet disposed of.

(b) The learned Judge, Family Court, Dindigul, after obtaining the records on transfer, is directed to dispose of the said HMOP, within a period of four months, thereafter.

(c) No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Judge,
Family Court, Madurai.

2. The Judge,
Family Court, Dindigul.

+1cc to Mr.A. Alexander, Advocate SR.No.74154

Trp

MK/KAK/SAR 2/06.08.2018/2P/4C