



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD) .No.184 of 2017
and
C.M.P (MD) No.4231 of 2017

E.Swerna Rekha

... Petitioner/Respondent

Vs.

P.Dharmaraj

... 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.1330 of 2017 on the file of the Family Court No.III, Chennai and transfer the same to the file of Family Court, Tirunelveli.

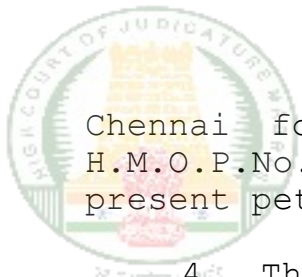
For Petitioner : Mr.H.Arumugam
For Respondent : Mr.C.Arul Vadivel @ Sekar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.1330 of 2017, from the file of the Family Court No.III, Chennai to the Family Court, Tirunelveli.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 31.08.2014, at R.K.V.Marriage Hall, Tirunelveli. After marriage, both of them lived happily for quite some period and out of the wedlock, the petitioner gave birth to a male child, namely, Viswa, on 20.09.2015 at her parental home. Thereafter, according to the petitioner, the respondent did not choose to visit them immediately and only after some time, he came to visit them. Even thereafter, the respondent did not choose to bring them back to the matrimonial home along with him, instead, started harassing and demanding dowry from the petitioner.

3. The learned Counsel for the petitioner would submit that in the mean time, the respondent has filed a petition in H.M.O.P.No.1330 of 2017 seeking restitution of conjugal rights before the Family Court No.III, Chennai. The learned Counsel for the petitioner would further submit that as the petitioner is residing at her parental home at Tirunelveli, along with her parents, it is very difficult for the petitioner to travel from Tirunelveli to



Chennai for attending each and every hearing of the case in H.M.O.P.No.1330 of 2017. Therefore, she has come forward with the present petition.

4. The learned Counsel appearing for the respondent would stoutly refute the allegations levelled against him, but, he would fairly submit that the respondent is not having any serious objections for transfer. However, he would pray for a direction to the Court below for early disposal of the H.M.O.P., proceedings.

5. Heard the learned Counsel appearing on both sides and perused the materials available on record.

6. 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). Therefore, I am inclined to allow the present petition.

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

- The learned Judge, Family Court No.III, Chennai is directed to transmit the entire records in H.M.O.P.No.1330 of 2017 to the file of the Family Court, Tirunelveli District within a period of two weeks from the date of receipt of copy of this order.
- The learned Judge, Family Court, Tirunelveli District, after obtaining the records on transfer, is directed to dispose of the same, within a period of six 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 Judge, Family Court No.III, Chennai.

2.The Judge, Family Court, Tirunelveli.

+1CC TO M/S.H.ARUMUGAM, ADVOCATE, SR NO.54983

+1CC TO M/S.C.ARUL VADIVEL @ SEKAR, ADVOCATE, SR NO.54462

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and

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