



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.04.2018

DELIVERED ON : 07.08.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Tr. C.M.P. (MD) No.217 of 2017

and

CMP (MD) No.4935 of 2017

R.Senbagadevi @ Devika

.. Petitioner

vs

V.Krishnadevarajan

.. Respondent

Petition filed under Section 24 of C.P.C., to withdraw and transfer the H.M.O.P.No.62 of 2017 on the file of the Sub Court, Sivakasi, Virudhunagar District to be tried before the Sub Court, Tiruchendur, Thoothukudi District.

For Petitioner : Mr.A.Thiruvadikumar

For Respondent : Mr.R.Karunanidhi

ORDER

This petition has been filed by the petitioner under Section 24 of the Code of Civil Procedure to withdraw and transfer H.M.O.P.No.62 of 2017 on the file of the Sub Court, Sivakasi, Virudhunagar District to be tried before the Sub Court, Tiruchendur, Thoothukudi District.

2. The petitioner is the wife and the respondent is the husband. Their marriage was solemnised on 1.2.2017 at Pallakurichi Village, Thoothukudi District as per Hindu rituals and customs. It is the case of the petitioner that she was subjected to harassment and cruelty by the respondent and his family members demanding dowry. It is stated that since the petitioner failed to concede to the demands of the respondent, she was chased out of the matrimonial house. It is further stated that her father took earnest efforts through well-wishers for reunion, but the respondent and his family

members are evading such talks under one pretext or the other.

3. It is further stated that, when things stood thus, the respondent filed a petition before the Sub Court, Sivakasi, Virudhunagar District to declare marriage a nullity. Seeking transfer of the said case, the present petition has been filed by the petitioner/wife.

4. The learned counsel for the petitioner submitted that the petitioner/wife is dependent on her parents for livelihood and she will have to travel nearly 300 kms. up and down to attend each court hearing and the same would cause great prejudice to her and family members, more so, when she is an unemployed lady and lives in a remote village.

5. The learned counsel for the respondent opposed the transfer petition and prayed for dismissal of the same, contending that the respondent is entitled to file a petition in Sivakasi and inasmuch as the said petition is pending, the petitioner has no right to seek transfer of the same.

6. I heard Mr.A.Thiruvadikumar, learned counsel for the petitioner and Mr.R.Karunanidhi, learned counsel for the respondent and perused the entire materials available on record.

7. It is not in dispute that the petitioner is residing at Tiruchendur, Thoothukudi District and the respondent is residing at Sivakasi Taluk, Virudhunagar District.

8. Admittedly, the petitioner is residing in Tiruchendur and she will have to travel over 300 kms up and down to Sivakasi for attending each hearing and she will have to spend substantial amount for travelling and other expenses. According to the petitioner, it is difficult to meet out the expenses for her travel.

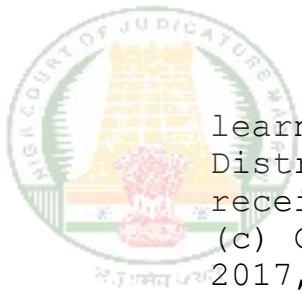
9. It is settled that convenience of the wife must be given paramount importance. Time and again, the Supreme Court and this Court held that it will not be conducive for a lady to travel all the distance from her place of present living to the place where the husband has instituted the case.

10. Considering the facts and circumstances of the case, it would be appropriate to transfer H.M.O.P.No.62 of 2017 on the file of the Sub Court, Sivakasi, Virudhunagar District to the Sub Court, Tiruchendur, Thoothukudi District..

11. In the result,

(a) The Transfer Civil Miscellaneous Petition is allowed.

(b) The learned Subordinate Judge, Sivakasi, Virudhunagar District is directed to transfer H.M.O.P.No.62 of 2017 from its file to the file of the



learned Subordinate Judge, Tiruchendur, Thoothukudi District, within a period of two weeks from the date of receipt of a copy of this order.

(c) On receipt of the entire records in H.M.O.P.No.62 of 2017, the learned Subordinate Judge, Tiruchendur, Thoothukudi District is directed to dispose of the same within a period of four months from the date of receipt of the records.

(d) No costs. Consequently, connected miscellaneous petition is closed.

07.08.2018

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judge,Sub Court, Sivakasi, Virudhunagar District.

2.The Judge,Sub Court, Tiruchendur, Thoothukudi District.

+1cc to Mr.A.Thiruvadikumar, Advocate, SR.No. 77682

+1cc to Mr.R.Karunanidhi, Advocate, SR.No.77884

Tr. C.M.P.(MD) No.217 of 2017
and
CMP(MD)No.4935 of 2017

VS

KK/SAR-/11.03.2019/3P-5C