



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.04.2018

Pronounced on : 18.07.2018

CORAM

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

**Tr.C.M.P. (MD) No.231 of 2017  
and  
CMP (MD) No.5536 of 2017**

M.Anuja .. Petitioner

vs.

M.Muthukumar .. Respondent

Prayer: Petition filed under Section 24 of C.P.C. to withdraw the case in H.M.O.P.No.83 of 2017 pending before the Sub-Court, Pudukottai and to transfer the same to the file of the Principal Sub-Court, Nagercoil.

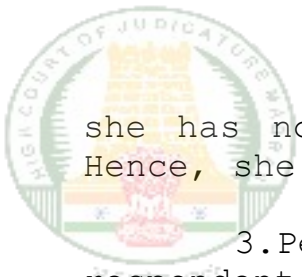
For Petitioner : Mr.R.Murugan

For Respondent : M/s.Hema Karthikeyan  
for M/s.P.Arun Jayatram

**ORDER**

The petitioner/wife in H.M.O.P.No.83 of 2017 has filed this Transfer Petition, seeking to transfer the above H.M.O.P. from the file of the Sub-Court, Pudukottai to the file of the Sub-Court, Nagercoil.

2.It is submitted by the learned counsel for the petitioner that the marriage of the petitioner was solemnized with the respondent on 22.05.2015. Since the respondent/husband deserted the petitioner herein, she is living with her parents at Nagercoil, while so, the husband filed Divorce Petition against the petitioner herein before the Sub-Court, Pudukottai in H.M.O.P.No.83 of 2017 on the ground of cruelty. It is the contention of the petitioner that since the petitioner is residing at Nagercoil, it is very difficult for her to attend the services of the Sub-Court, Pudukottai which is very far away. The distance between Pudukottai to Nagercoil is more than 400 Kilometers and the petitioner have no means to go over to Pudukottai. Further,



she has no male members to assist her, except her aged father. Hence, she filed the above Transfer Petition.

3.Per contra, the learned counsel appearing for the respondent contented that though the petitioner/wife is residing at Nagercoil, she need not appear before the Sub-Court at Pudukottai on every hearing and her presence is required only for two hearings i.e, to file proof affidavit and for her cross examination. Therefore, the distance between Nagercoil and Pudukottai is not a criteria for transfer. Hence, he prays to dismiss the Transfer petition.

4.I heard Mr.R.Murugan, learned counsel for the petitioner and M/s.Hema Karthikeyan for M/s.P.Arun Jayatram, learned counsel for the respondent and perused the entire material available on record.

5.This Court, on careful consideration of the rival submissions made on both sides, takes view that there is bonafide on the part of the petitioner/wife seeking Transfer of H.M.O.P.No.83 of 2017 from the file of the Sub-Court, Pudukottai to the file of the Sub-Court, Nagercoil. At this juncture, it is notified that Section 19(iii-a) of the Hindu Marriage Act, 1955 came to be enacted to confer a benefit on the wife to sue for matrimonial relief at the place of her resident and that pentavalent provision is to be given liberal interpretation in favour of the wife. The said principle is applicable in the facts of the case on hand. The present case, admittedly the respondent/husband is working at Singapore at present which would be evident from the Vakalath filed by him. The fact remains that the petitioner/wife is living with her aged parents at Nagercoil and therefore, she may not be in a position to travel to a far away place that too a distance of 400 kilometers without the assistance of any male members. This Court as well as the Hon'ble Apex Court has held in a catena of decision that whenever, the Transfer Petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. Further, the petitioner herein is also seeking Transfer of the above H.M.O.P. to the file of the Sub-Court only where the presence of the respondent/husband is not required in all hearing.

6.In the light of above said facts and circumstances, this Court is of the considered view that the Transfer C.M.P.No.231 of 2017 filed by the wife deserve to be allowed and accordingly allowed.

7.In the result:

(a) this Transfer C.M.P.No.231 of 2017 is allowed and H.M.O.P.No.83 of 2017 is withdrawn from the file of the Sub-Court, Pudukottai and transferred to the file of the Principal Sub-Court, Nagercoil;



(b) the learned Principal Sub-Judge, Nagercoil is directed to dispose of the above H.M.O.P. as expeditiously as possible, but not later than four months from the date of receipt of a copy of this order. Both the parties are hereby directed to give their fullest co-operation for speedy disposal of the above H.M.O.P. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,  
Nagercoil.

2. The Subordinate Judge,  
Pudukottai.

+ 1 cc TO Mr.Arun Jayatram , Advocate in SR No. 73977  
+ 1 cc TO Mr.R.Murugan , Advocate in SR No. 73485

VSV

AE/PN/SAR3/26.07.2018/3P/5C

order made in  
Tr.C.M.P. (MD) No.231 of 2017  
and  
CMP (MD) No.5536 of 2017  
18.07.2018