



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD).No.429 of 2017
and
C.M.P (MD)No.8656 of 2017

P.Suriya Prabha ... Petitioner/Respondent

Vs.

S.Sivamuthubalan ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the H.M.O.P.No.65 of 2017 on the file of the Family Court, Sivagangai and transfer the same to the file of Sub Court, Theni.

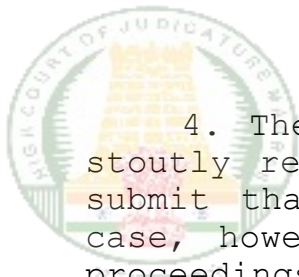
For Petitioner : Mr.G.Mohankumar
For Respondent : Mr.K.Vinayagam

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.65 of 2017, from the file of Family Court, Sivagangai to the Sub Court, Theni.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 14.02.2016 in Sree Karpura Sathiya Seeman Thirumana Mandapam, Sivagangai. After marriage, both of them lived happily for some time. Thereafter, the petitioner underwent harassment and cruelty under the hands of the respondent and the respondent's family. Aggrieved by the actions of the respondent, the petitioner left the respondent's house and had instituted a petition in H.M.O.P.No.128 of 2016 on the file of the Sub-Court, Theni seeking restitution of conjugal rights, which is said to be pending.

3. The learned Counsel for the petitioner would submit that the petitioner is presently working at Trichy and in the mean time, the respondent has filed a petition in H.M.O.P.No.65 of 2017 seeking divorce before the Family Court, Sivagangai. He would further contend that it is very difficult for the petitioner to travel from Trichy to Sivagangai for attending each and every hearing of the case. Therefore, she has come forward with the present petition for



4. The learned Counsel for the respondent, on the other hand, stoutly refuted the allegations levelled against him and he would submit that the respondent has no objection for transferring the case, however, he prays for early disposal of both the H.M.O.P., proceedings.

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5. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent 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, Sivagangai is directed to transmit the entire records in H.M.O.P.No.65 of 2017 to the file of the Sub Court, Theni within a period of two weeks from the date of receipt of copy of this order.
- The learned Sub-Judge, Theni, after obtaining the records on transfer, is directed to try both the petitions, viz., H.M.O.P.Nos.128 of 2016 and 65 of 2017, together and 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(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Judge, Family Court, Sivagangai.

2.The Judge, Subordinate Court, Theni.

+1CC to Mr.G.Mohankumar, Advocate, SR.No. 45637

+1CC to Mr.K.Vinayagam, Advocate, SR.No. 45530

TR. C.M.P (MD) .No.429 of 2017
and

C.M.P (MD) No.8656 of 2017

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