



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2018

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

TR. C.M.P (MD) .No. 292 of 2017

and

C.M.P. (MD) No. 6395 of 2017

T. Sivasutha

... Respondent/Petitioner

Vs.

M. Satheeskumar

... Petitioner/Respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw the H.M.O.P. No.352 of 2015, on the file of the learned Sub-Court, Thirumangalam and transfer the same to any one of the competent Court at Trichy.

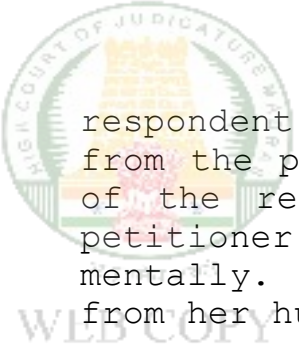
For Petitioner : Mr.A.Chandrakumar

For Respondent : Mr.V.Maharajan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw the H.M.O.P. No.352 of 2015, on the file of the learned Sub-Court, Thirumangalam and transfer the same to any one of the competent Court at Trichy.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 21.10.2012 at Sri Gurusamy Mahal, Thirumangalam, Madurai District as per our caste custom and the same was arranged by both the families. At the time of marriage, the petitioner's parents had presented 40 sovereigns of gold jewels and in addition to house hold articles worth about for a sum of Rs.2 lakhs. After the marriage, the petitioner and the respondent were decided to settle at Trichy, because the petitioner is employed at Bharathidhasan University, Trichy as Assistant Professor and the



respondent has no any job. The respondent started to demand money from the petitioner. The petitioner refused to accept the demand of the respondent he started quarrel with the petitioner. The petitioner was ill-treated and harassed by physically and mentally. The petitioner was ruined from the matrimonial home and from her husband since 28.03.2015.

3. Hence, the petitioner has filed an application for divorce before the learned II Additional Sub-Judge/Principal Sub-Judge (Full Additional Charge), Trichy in H.M.O.P. NO.332 of 2015. The respondent/husband was deliberately refused to appear and failed to contest the case. Due to non-appearance of the respondent/husband the above said H.M.O.P No.332 of 2015 was dismissed for default on 27.04.2017 and the marriage dated 21.10.2012 solemnized between the petitioner and respondent was dissolved. The respondent did not take steps to set aside the exparte order or challenge the divorce decree before the competent Court.

4. In the meantime, the respondent/husband has filed a petition in H.M.O.P. No.352 of 2015 before the learned Sub-Judge, Thirumangalam. It is very difficult for the petitioner to travel from Trichy to Tirumanagalam for attending each and every hearing of the case. Therefore, she has come forward with the present petition for transfer of the case.

5. Heard the learned Counsel appearing for the petitioner as well as the respondent and perused the materials available on record.

6. Being satisfied with the reasons stated in the affidavit filed in support of this petition as well as considering the well settled law that convenience of woman has to be taken into consideration at the time of considering transfer applications as held by the Hon'ble Supreme Court in the judgment reported in **2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, I am inclined to allow the present petition.

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

(i) The learned Sub Judge, Tirumangalam, is directed to transmit the entire records in H.M.O.P.No.352 of 2015 to the file of the II Additional Sub-Court, Trichy within a period of two weeks from the date of receipt of copy of this order.

ii) The learned II Additional Sub-Judge, Trichy after obtaining the records on transfer, is directed to dispose of the H.M.O.P. No.352 of 2015, within a period of two months thereafter, in accordance with law.



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No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Subordinate Judge,
Thirumangalam.
2. The II Additional Subordinate Judge,
Trichy.

+ 1 CC TO Mr.V.MAHARAJAN, ADVOCATE IN SR No. 75727
+ 1 CC TO Mr.A.CHANDRAKUMAR, ADVOCATE IN SR No. 75293

KSA
TE/RP/SAR-3 : 13/08/2018 : 3P/5C

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