



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD).No.370 of 2017
and
C.M.P (MD)No.7585 of 2017

N.Durga ... Petitioner/Respondent

Vs.

R.Asaitambi ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to transfer the H.M.O.P.No.136 of 2017 from the file of the Principal Sub Court, Thanjavur to the Principal Sub Court, Kumbakonam.

For Petitioner : Mr.A.Senthilkumar
For Respondent : Mr.R.Jegadeeswaran

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.136 of 2017 from the file of the Principal Sub Court, Thanjavur to the Principal Sub Court, Kumbakonam.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 26.01.2015, in Thiruvaiyaru, Thanjavur District. After marriage, both of them lived happily for quite some period at Chennai. After the birth of the first child, they come down to their native at Thanjavur. There were difference of opinion and the petitioner was put to mental harassment. After the birth of the second child which was also a female, she was put to harassment and she called her mother and brother and filed a complaint against the respondent, which ended in quarrel. According to the counsel for the petitioner, the respondent filed H.M.O.P.No.136 of 2017 for restitution of conjugal right, only to harass the petitioner.

3. The learned Counsel for the petitioner would further submit that as the petitioner is residing at her parental home at Kumbakonam with two children, along with her mother, who is a sick woman suffering from many bodily ailments, it is very difficult for



the petitioner to travel from Kumbakonam to Thanjavur for attending each and every hearing of the case in H.M.O.P.No.136 of 2017. Therefore, she has come forward with the present petition.

4. The learned Counsel for the respondent, on the other hand, stoutly refuted the allegations levelled against him and he would further submit that every time when the respondent appears before the Court proceedings for the maintenance case, he had been teased by the petitioner and her family. He would fairly submit that the respondent has no objections for transferring the case, however, he prays for early disposal of the H.M.O.P., proceedings.

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

6. It is seen that the petitioner does not have a father and she is living with her mother and having two children, which is not disputed by the respondent/husband. It is also seen from the records that the respondent / husband has filed the H.M.O.P., petition prior to that of the petitioner / wife.

7. 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.

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

- The learned Principal Sub Judge, Thanjavur is directed to transmit the entire records in H.M.O.P.No.136 of 2017 to the file of the Principal Sub Court, Kumbakonam, within a period of two weeks from the date of receipt of copy of this order.
- The learned Principal Sub Court, Kumbakonam, after obtaining the records on transfer, is directed dispose of the H.M.O.P.No.136 of 2017, 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 Principal Sub Judge, Thanjavur.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Principal Sub Judge, Kumbakonam.



+1cc to M/S.A.Senthilkumar, Advocate SR.No. 54733
+1cc to M/S.R.Jegadeeswaran, Advocate SR.No. 54584

WEB COPY

TR.C.M.P (MD) .No.370 of 2017 and
C.M.P (MD) No.7585 of 2017

pnn

JM/JC/SAR 1/22.03.2018/3P/5C