



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2018

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD) .No.486 of 2017
and
C.M.P (MD) No.9704 of 2017

Saraswathy ... Petitioner/Respondent-Wife

Vs.

Krishnan ...Respondent/Petitioner-Husband

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case on the file of the learned Subordinate Judge, Tambaram in H.M.O.P.No.547 of 2017 and transfer the same to the Family Court, Tirunelveli.

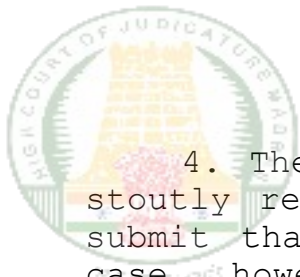
For Petitioner : Mr.S.Mahendrapathy
For Respondent : Mr.M.Sankar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.547 of 2017, from the file of the Sub Court, Tambaram to the Family Court, Tirunelveli.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 30.04.2010. After marriage, both of them lived happily for some time and out of the wedlock, they gave birth to a male child. 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 along with her child, aged about 6 years, had left the respondent's house and are presently residing with the petitioner's parents at Tirunelveli.

3. The learned Counsel for the petitioner would submit that in the mean time, the respondent has filed a petition in H.M.O.P.No.547 of 2017 seeking divorce before the Sub Court, Tambaram. The learned Counsel for the petitioner would further submit that as the petitioner is residing at her parental home at Tirunelveli, along with her six years old school going child, it is very difficult for the petitioner to travel from Tirunelveli to Tambaram for attending each and every hearing of the case. Therefore, she has come forward with the present petition for transfer.



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 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. 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 Subordinate Judge, Tambaram is directed to transmit the entire records in H.M.O.P.No.547 of 2017 to the file of the Family Court, Tirunelveli within a period of two weeks from the date of receipt of copy of this order.
- The learned Judge, Family Court, Tirunelveli, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.547 of 2017, within a period of one year thereafter, in accordance with law.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

TO

1.The Judge, The Family Court,
Tirunelveli.

2.The Subordinate Judge,
Tambaram.

+One cc to M/s.S.Mahendrapathy , Advocate, SR.No.52079
+One cc to M/s.M.Sankar, Advocate, SR.No.52114

gk

RL/5C/2P/SKN/RSK/SAR3/7/3/2018

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