



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.49 of 2017
and
C.M.P(MD)No.1251 of 2017

J.Sudha ... Petitioner/Respondent

Vs.

A.Ramar ... 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.249 of 2017 renumbered on the file of the Subordinate Court, Thirumangalam, Madurai District and transfer the same to the Family Court, Srivilliputtur, Virudhunagar District.

For Petitioner : Mr.G.Marimuthu
For Respondent : No Appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.249 of 2017 renumbered, from the file of the Subordinate Court, Thirumangalam, Madurai District to the Family Court, Srivilliputtur, Virudhunagar District.

2. The learned Counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 18.02.2005 at Krishnan Kovil and out of the wedlock the petitioner gave birth to a female child, namely, Arulnidhi Prasana, who is 11 years old, studying 5th standard in the RC Middle School, Srivilliputhur, Virudhunagar District. He would further submit that the petitioner's father is an Ex-Service man and the respondent is also working in the Army and the respondent does not lead a happy married life with the petitioner and hence, the petitioner filed a petition for restitution of conjugal rights in HMOP No.131 of 2010 before the Subordinate Court, Srivilliputtur. Though the petitioner has taken steps to serve notice to the respondent, the respondent was evading the same. The petitioner having no other option sent a representation to the Army Officials seeking to sanction some amount as maintenance and the Officials attached to the Army taken steps and sanctioned a sum of Rs.3,000/- per month to the petitioner and child. Now, the petitioner is



living with her old aged parents. The respondent did not take any steps to maintain the petitioner and child. Subsequently, in the year 2014 the respondent filed a divorce petition before the Sub Court, Thirumangalam in HMOP No.467 of 2014 which has been renumbered as HMOP.No.249 of 2017 stating false and frivolous allegations against the petitioner. As the petitioner is having girl child it is very difficult for the petitioner to travel about 70 kms from Srivilliputtur to Thirumangalam for attending each and every hearing for the case and hence, she prays for transfer of the same.

3. Heard the learned Counsel for the petitioner and perused the materials available on record. Though notice was ordered, the respondent refused to receive the notice and substituted service was ordered and proof was also filed.

4. 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*). I am inclined to allow this Transfer Civil Miscellaneous Petition.

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

- The learned Subordinate Judge, Thirumangalam is directed to transmit the entire records in H.M.O.P.No.249 of 2017 to the file of the Family Court, Srivilliputtur, Virudhunagar District within a period of two weeks from the date of receipt of copy of this order.
- The learned Subordinate Judge, Srivilliputtur is directed to transmit the entire records in H.M.O.P.No.131 of 2010 to the file of the Family Court, Srivilliputtur, Virudhunagar District within a period of two weeks from the date of receipt of copy of this order.
- The learned Judge, Family Court, Srivilliputtur, Virudhunagar District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.249 of 2017 along with M.C.No.09 of 2017 and H.M.O.P. No.131 of 2010 within a period of six months from the date of receipt of a copy of this order, in accordance with law. No costs. Consequently, connected C.M.P.(MD) No.1251 of 2017 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar



To

1.The Judge,
Family Court,
Srivilliputtur,
Virudhunagar District.

2.The Subordinate Judge,
Thirumangalam

3.The Subordinate Judge,
Srivilliputtur, Virudhunagar District.

+One cc to Mr.M.Jothibas, Advocate, SR.No.45094

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RL/5C/3P/SV/MMS/SAR1/14/2/2018

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