



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.536 of 2017

and

CMP(MD)No.11527 of 2017

P.Gomathi @ Aarumuga Gomathi

...Petitioner/Respondent

vs.

K.Ganesan

... Respondent/Petitioner

Petition filed under Section 24 of the Civil Procedure Code, to withdraw HMOP.No.4174 of 2017 on the file of the learned Family Court No.II, Chennai and transfer the same to the file of the learned Sub Court, Sankaran Kovil.

For Petitioner : Mr.R.Karunanidhi
For Respondent : Mr.K.Rajeswaran

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw and transfer HMOP.No.4174 of 2017 from the file of the Family Court No.II, Chennai to the file of the Sub Court, Sankaran Kovil.

2.Learned counsel for the petitioner would among other things aver that the marriage between the petitioner and the respondent was solemnised on 17.06.2015 as per the Hindu rites and customs. Out of the wedlock, two female children were born. It is further contended that the respondent demanded dowry and ultimately, he left to Chennai leaving the petitioner and two female children in the petitioner's father's house. Thereafter, the petitioner received notice in HMOP.No.4174 of 2017 filed by the respondent for divorce.

3.Learned counsel for the petitioner would further submit the petitioner along with her daughters are now residing with her aged parents at Sankaran Kovil. Further, the distance between Sankaran Kovil and Chennai is about 600 kms and without any assistance, she is unable to travel to Madurai to attend the hearings of HMOP.

4.Though the learned counsel for the respondent objected to the transfer of HMOP.No.4174 of 2017, he prayed for early disposal of the said HMOP.

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



6.It is a settled legal proposition that in transfer petitions regarding matrimonial disputes, convenience of the wife has to be given preference. In this regard, reference can be made to the following decision of the Hon'ble Supreme Court in *Arti Rani @ Pinki Devi and another Vs. Dharmendra Comber Gupta*, reported in 2008 (9) SCC 353, wherein, it has been held that convenience of the wife must be given preference in the matter of transfer petition.

7.Considering the facts and circumstances of the case and in the light of the legal principle that convenience of the wife has to be given preference, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

(i)The learned Judge, Family Court No.II, Chennai, is directed to transfer all the case papers pertaining to HMOP.No.4174 of 2017 to the learned Sub Judge, Sankaran Kovil, within a period of two weeks from the date of receipt of a copy of this order.

(ii)On receipt of the case papers in HMOP.No.4174 of 2017, the learned Sub Judge, Sankaran Kovil, shall dispose of HMOP.No.4174 of 2017 within a period of six months thereafter.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1)The Judge,
Family Court No.II,
Chennai.

2)The Subordinate Judge,
Sankaran Kovil.

+One cc to M/s.R.Karunanidhi, Advocate, SR.No.52630

+One cc to M/s.K.Rajeshwaran, Advocate, SR.No.52760

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RL/5C/2P/KKR/SAR1/28/3/2018

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