



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.02.2018
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.549 of 2017
and
C.M.P(MD)No.11999 of 2017

K.Rajam

... Petitioner/Respondent

Vs.

B.Manoharan

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the HMOP.No.148 of 2017 on the file of the learned Subordinate Judge, Karur and transfer the same to the file of the Subordinate Judge's Court, Periyakulam.

For Petitioner : Mr.S.Titus
For Respondent : Mr.K.K.Ramakrishnan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of HMOP.No.148 of 2017, from the file of the Subordinate Court, Karur, to the Subordinate Court, Periyakulam.

2. The learned Counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 24.06.2009 and out of the wedlock she begotten a female child. Initially they had been living in their matrimonial home as joint family and later on they were living separately. Both of them were working. As the respondent demanded more dowry and she was put to mental harassment, she returned to her parents home and then efforts for reunion by elders went in vain and she filed a petition in H.M.O.P.No.61 of 2014 on the file of the Sub-Court, Periyakulam, seeking divorce and based on the conciliation, they decided to reunite and hence, the petitioner withdrawn the case. Thereafter, they joined together for few days, again there were dispute arose between them and according to the petitioner, she escaped from the murderous behaviour of the respondent and she lived with her parents. The respondent sent a legal notice dated 08.05.2017, for which, she sent a reply on 26.05.2017. Later on a D.V.P.No.8 of 2017 case was filed by the petitioner before the Judicial Magistrate Court, Periyakulam and then the respondent filed a petition in HMOP.No.148 of 2017, on the file of the Subordinate Court, Karur, seeking divorce, which is said to be pending. The petitioner is working at Periyakulam for a meagre salary and not able



to go to Karur, which is 200 Kms. away from her residence and 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. petition.

5. Heard the learned Counsel on either side 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 application 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, without adverting into the merits of the case.

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

- The learned Subordinate Judge, Karur is directed to transmit the entire records in H.M.O.P.No.148 of 2017 to the file of the Subordinate Judge, Periyakulam, within a period of two weeks from the date of receipt of copy of this order.
- The learned Subordinate Judge, Periyakulam, after obtaining the records on transfer, is directed to dispose of the same, within a period of one year thereafter, in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Karur.

2.The Subordinate Judge, Periyakulam.

+1cc to M/S.S.TITUS, Advocate SR.No.49219.

+1cc to M/S.K.K.RAMAKRISHNAN, Advocate SR.No.49171.

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