



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

TR. C.M.P(MD).No. 554 of 2017
and C.M.P. (MD) No. 12120 of 2017

Sangeetha

... Petitioner/Respondent

Vs.

Udayashankar

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw H.M.O.P. No.307 of 2017 on the file of the learned Subordinate Judge, Theni and to transfer the same to the file of the learned Subordinate Judge, Madurai and to try along with H.M.O.P. No. 383 of 2017.

For Petitioner : Mr. T.K. Gopalan
For Respondent : No Appearance.

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw H.M.O.P. No.307 of 2017 on the file of the learned Subordinate Judge, Theni and to transfer the same to the file of the learned Subordinate Judge, Madurai and to try along with H.M.O.P. No. 383 of 2017.

2. No representation for the respondent even his name is printed in the cause list.

3. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 13.09.2016. Without any reason on 14.11.2016 the respondent herein/husband has created problem as the petitioner is a sick person and she underwent an heart surgery in the year 2003 at the age of 10 years and suppressing the same got married the respondent. The parents of the petitioner openly disclosed the fact to the parents of the respondent about the heart ailment and also handed over the medical reports to them. As per the medical report, the petitioner is hale and healthy and the doctor also certified that the petitioner is fit for marital life. On 29.11.2016, the respondent has issued a legal notice to the petitioner for divorce. Thereafter, the respondent herein/husband has filed a petition in H.M.O.P. No.307 of 2017 on the file of the Sub-Court, Theni for divorce. Now, the petitioner is residing with her parents at Thirumangalam.



4. In the meantime, the petitioner herein/wife has filed a petition in H.M.O.P. No.383 of 2017 on the file of the learned Subordinate Judge, Madurai against the respondent for restitution of conjugal rights. He would further contend that it is very difficult for the petitioner to travel from Thirumangalam to Theni for attending each and every hearing of the case. Therefore, she has come forward with the present petition for transfer.

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

6. Being satisfied with the reasons stated in the affidavit filed in support of this petition, as well as considering the well settled law that convenience of woman has to be taken into consideration at the time of considering transfer applications as held by the Hon'ble 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 the present petition.

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

(i) *The learned Subordinate Judge, Theni, is directed to transmit the entire records in H.M.O.P. No.307 of 2017 to the file of the Sub-Court, Madurai within a period of two weeks from the date of receipt of copy of this order.*

ii) *The Sub Judge, Madurai after obtaining the records on transfer, is directed to try along with HMOP No.383 of 2017 and dispose of both the cases, within a period of three months thereafter, in accordance with law.*

No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The Subordinate Judge,
Theni.

2. The Subordinate Judge,
Madurai.

+1cc to Mr.PT.S.NARENDRAVASAN Advocate, SR.No.75297

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