



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.01.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP (MD) No.340 of 2016

and

CMP (MD) No.6406 of 2016

Deepa ... Petitioner/ Respondent
vs.
Dr.S.Gnanavadivel ... Respondent/ Petitioner

Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer HMOP.No.114 of 2010 from the file of the Sub Court, Sivagangai, and transfer the same to Family Court, Coimbatore.

For Petitioner : Mr.M.Vinoth Singh Misra
For Respondent : Mr.AN.Ramanathan

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw and transfer HMOP.No.114 of 2010 from the file of the Sub Court, Sivagangai, and transfer the same to Family Court, Coimbatore.

2.Learned counsel for the petitioner would among other things aver that the marriage between the petitioner and the respondent was solemnised on 07.06.2006 as per the Hindu rites and customs. Out of the wedlock, one male child was born. It is further contended that the respondent demanded dowry and did not pay maintenance to the petitioner and her son. While so, he filed HMOP.No.114 of 2010 on the file of the Sub Court, Sivagangai, for divorce.

3.Learned counsel for the petitioner would further submit the petitioner along with her son aged 8½ years is now residing at Coimbatore with her parents and she is depending on her aged parents for her livelihood. Further, the distance between Sivagangai and Coimbatore is about 300 kms and she is unable to bear the expenses for attending the hearings of HMOP at Sivagangai. It is further stated that the maintenance case filed by the petitioner in M.C.No.33 of 2011 is also pending before the Family Court, Coimbatore.

4.Though the learned counsel for the respondent objected to the transfer of HMOP.No.114 of 2010, he prayed for early disposal of the 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 and HMOP.No.114 of 2010 is ordered to be transferred from the file of the Sub Court, Sivagangai, to the file of Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. The learned Judge, Family Court, Coimbatore, is directed to dispose of HMOP.No.114 of 2010 within a period of six months from the date of receipt of case papers in HMOP.No.114 of 2010. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1) The Judge,
Family Court,
Coimbatore.

2) The Judge,
Sub Court,
Sivagangai.

+1cc to Mr.M.Vinoth Singh Misra, Advocate Sr.No.45499
+1cc to Mr.AN.Ramanathan, Advocate Sr.No.45398

BALA

VB/SKN/RSK/SAR2/19.02.2018/2P/5C

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