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(2008) 11 MAD CK 0129

Madras High Court

Case No: Tr. C.M.P. No. 273 of 2008 and M.P. No. 1 of 2008

Sylvia Jabakumari APPELLANT

Vs

R. Anandaraj RESPONDENT

Date of Decision: Nov. 13, 2008

Hon'ble Judges: M. Venugopal, J

Bench: Single Bench

Advocate: S. Subbiah, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

M. Venugopal, J.
The transfer CMP has been preferred by the petitioner/wife praying for an issuance of order by this Court to withdraw the proceedings in I.D.O.P. No. 81 of 2008 from the file of Principal District Judge, Chengalpattu and to transfer the same to the file of Family Court at Madurai where the maintenance case M.C. No. 22 of 2008 filed by the petitioner/wife is pending. The respondent is the husband of the petitioner. The marriage of the petitioner with the respondent/husband has taken place on 09.09.1996 at St.George Church, South Avanimoola Street, Madurai according to Christian Marriage Act, 1972. The petitioner has given birth two sons one Joshwa Jebaraj and Richard Raj and they are in the custody of the respondent/husband.

2. It appears that the petitioner/wife has filed maintenance case in M.C. No. 22 of 2008 on the file of Family Court, Madurai and that the respondent/husband has filed the I.D.O.P. No. 81 of 2008 on the file of Principal District Judge, Chengalpattu for the relief of restitution of conjugal rights. According to the Learned Counsel for the petitioner, the petitioner/wife is in Madurai ever since February 2008 and the petitioner has no male help to accompany her from Madurai to Chennai and then Chennai to Chengalpattu and make arrangements either to come back to Chennai to board a train or bus on her way back to Madurai and that she has no close relations to stay either at Chennai or at Chengalpattu and for the purpose of hearing from Madurai to Chennai and Chengalpattu and vice versa, she has to incur

heavy expenditure and also to engage a counsel at Chengalpattu and to pay a decent fees and further that the petitioner/wife cannot bring her witnesses all the way from Madurai to Chengalpattu and therefore, prays for allowing the transfer application in the interest of justice. It is to be noted that convenience of parties will have to be taken into account for the purpose of deciding transfer application in matrimonial disputes. Of course, the paramount consideration is the convenience of the wife. Inasmuch as the petitioner/wife has stated that she has no male help to accompany her from Madurai to Chennai to attend the hearing of the case I.D.O.P. No. 81 of 2008 pending on the file of Principal District Judge at Chengalpattu and since she has to incur heavy expenditure for her travel from Madurai to Chengalpattu etc. and bearing in mind of the totality of the facts and circumstances of the present case, this Court is of the considered view that the convenience of petitioner/wife stands in a better position and therefore, this Court allows the transfer petition in the interest of justice and directs the withdrawal of I.D.O.P. No. 81 of 2008 on the file of the Principal District Judge, Chengalpattu to the file of Family Court, Madurai.

In fine, the Tr. CMP is allowed without costs. Consequently, connected miscellaneous petition is closed.