



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

WEB COPY

TR.C.M.P (MD) No.298 of 2017

and

C.M.P (MD) No.6467 of 2017

Sumathi

...Petitioner/Respondent

Vs.

Viswanathan @ Ramesh

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.872 of 2014 on the file of the Family Court, Tiruchirappalli and transfer the same to the Principal Sub Court, Thanjavur.

For Petitioner

: Mr.S.Rajaprabu

For Respondent

: Mr.T.Senthilkumar

ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.872 of 2014 on the file of the Family Court, Tiruchirappalli and transfer the same to the Principal Sub Court, Thanjavur.

2.The petitioner herein is the wife and the respondent is the husband. The respondent filed H.M.O.P.No.872 of 2014 on the file of the Family Court, Trichy praying for divorce and the petitioner has filed M.C.No.1 of 2015 before the same Court, for maintenance and both the cases are pending.

3.The learned counsel appearing for the petitioner submitted that on a previous occasion, the petitioner has filed a petition to re-open the evidence, but the learned Judge dismissed the said petition without even numbering the same and hence, the petitioner filed C.R.P(PD) (MD) No.1105 of 2017 and the same was allowed, vide order dated 12.06.2017. The learned counsel has also submitted that learned Judge is acting in a biased manner and therefore, the petitioner apprehends that she will not get justice from the said Court and hence, she has filed this Transfer Petition seeking transfer of the above said H.M.O.P.

4. The learned counsel appearing for the respondent/husband submitted that he has no objection for transfer of the case, if a

<https://hcservices.courts.gov.in/hcservices/>

order is issued for speedy disposal of the case.

5.It is well settled law that whenever, the transfer



application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008(9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)** and **AIR 2002 SC 396 (Sumita Singh Vs. Kumar Sanjay and another)** and the respondent has also no objection for transfer of the case.

6. Taking into consideration of the above facts and circumstances of the case and in the interest of justice, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

i) The learned Judge, Family Court, Tiruchirappalli, is directed to transmit the entire records in H.M.O.P.No.872 of 2014 to the file of the Principal Sub Court, Thanjavur, within a period of three weeks from the date of receipt of copy of this order.

ii) the learned Principal Sub Court, Thanjavur, after obtaining the records on transfer, is directed to dispose of both H.M.P.No.872 of 2014 as expeditiously as possible, more particularly, within a period of three months in accordance with law.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar

To

1. The Judge,
Family Court,
Tiruchirappalli.

2. The Principal Sub Court,
Thanjavur.

+ 1 CC TO MR.T.Senthilkumar, ADVOCATE IN SR No.76714

pm

MK/KP/SAR-1/2P/4C/15.09.2017

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