



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P (MD) .No.22 of 2018
and
C.M.P (MD) No.559 of 2018

M.Muthurakku

... Petitioner/Respondent

Vs.

K.Sankaranayinar

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the H.M.O.P.No.307 of 2017 on the file of the Subordinate Court, Tiruchenthur and transfer the same to the file of the Family Court, Madurai.

For petitioner : Mr.V.Selva

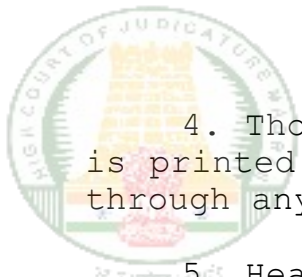
For respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.307 of 2017 from the file of the Subordinate Court, Tiruchenthur to the file of the Family Court, Madurai.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 27.08.2010. After marriage, both of them lived happily for some time and they blessed with a male child and he is now aged about 4 years. While so, the respondent herein / husband of the petitioner has filed H.M.O.P.No.307 of 2017 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Tiruchendur has filed the above divorce petition at Subordinate Court, Tiruchendur, whereas the petitioner is residing at Madurai, along with 4 years old male child and hence, it is very difficult for her to travel about 190 kms along with her child from Madurai to Tiruchendur for attending each and every hearing of the case.

3. The learned counsel for the petitioner reiterated the averments made in the petition.



4. Though notice has been served to the respondent and his name is printed in the cause list, he did not appear either in person or through any counsel.

5. Heard the learned Counsel for the petitioner and perused the materials available on record.

6. I am satisfied with the reasons stated in the affidavit filed in support of this petition. The Hon'ble Supreme Court in the judgment reported in 2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta), has held that convenience of woman is to be taken into consideration first at the time of considering transfer applications. Hence, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

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

ii) The learned Family Court Judge, Madurai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.307 of 2017 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T & P)

/True copy/

Sub Assistant Registrar

To,

1.The Subordinate Judge, Tiruchendur.

2.The Judge, Family Court, Madurai.

+1CC TO M/S.V.SELVA, ADVOCATE, SR NO.53076

TR. C.M.P(MD) .No.22 of 2018
05.03.2018

gcg

MS/SV-MMS/SAR-2/22.03.2018/2P.4C