



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.30 of 2018

and

C.M.P(MD)No.785 of 2018

Sri Devi

... Petitioner

Vs.

S.Rajalingam

... Respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw and transfer the case in H.M.O.P.No.563 of 2017 on the file of the learned Subordinate Judge, Thirumangalam, Madurai District to the Family Judge, Sivagangai.

For Petitioner : Mr.A.Prasanna Rajadurai
for M/s.S.Muthalraj
For Respondent : No Appearance

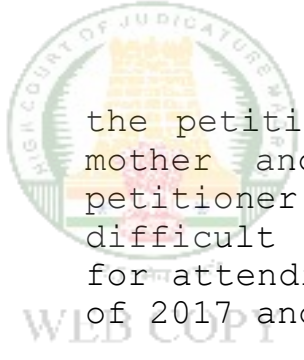
ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.563 of 2017, from the file of the Sub Court, Thirumangalam, Madurai District to Family Court, Sivagangai.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 02.07.2006. After marriage, both of them lived happily for quite some period only. The learned Counsel would submit that the first pregnancy of the petitioner was unfortunately aborted in the year 2007 and out of the second pregnancy, she gave birth to a child, by name, Rishikesan, on 07.05.2009, at her parental home. Thereafter, according to the petitioner, the respondent did not choose to visit them and take them back to their matrimonial home, but, instead has filed H.M.O.P.No.563 of 2017 before Sub Court, Thirumangalam, Madurai, seeking divorce.

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

3. The learned Counsel for the petitioner would submit that



the petitioner's father was expired and she is residing with her mother and her younger brother, who is taking care of the petitioner and her eight years old child. Therefore, it is very difficult for the petitioner to travel to Thirumangalam, Madurai for attending each and every hearing of the case in H.M.O.P.No.563 of 2017 and hence, she has come forward with the present petition.

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

5. It is seen that notice ordered by this Court on 30.01.2018, was received by the respondent's mother. Moreover, the respondent's name was also printed in the cause list. Despite the same, there is no representation on behalf of the respondent, either in person or through Counsel.

6. I am satisfied with the reasons stated in the affidavit filed in support of this petition. It is well settled law that convenience of woman is to be taken into consideration at the time of considering transfer applications as held by the Supreme Court in the judgment reported in **2008(9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**. Therefore, I am inclined to allow the present petition.

7. Accordingly, this petition is allowed and the learned Subordinate Judge, Thirumangalam, Madurai, is directed to transmit the entire records in H.M.O.P.No.563 of 2017 to the file of the Family Court, Sivagangai, within a period of two weeks from the date of receipt of copy of this order, who shall dispose of the same, as expeditiously as possible, in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Thirumangalam, Madurai District.

2.The Judge, Family Court, Sivagangai.

+ 1 cc TO Mr.NA.Palaniyandi , Advocate in SR No.54840

gk

AE/SKN RSK/SAR4/22.03.2018/2P/4C

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