



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.03.2018

CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

TR. C.M.P(MD).No.4 of 2018
and
C.M.P(MD)No.108 of 2018

Banupriya ... Petitioner/Respondent

Vs.

Vijay ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw the case in H.M.O.P.No.86 of 2017 on the file of the Principal Subordinate Court, Kulithalai and transfer the same to the file of the Principal Family Court, Coimbatore.

For petitioner :Mr.J.M.Hassanul Bazari
For respondent :Mr.G.Sridharan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.86 of 2017 from the file of the Principal Subordinate Court, Kulithalai to the file of the Principal Family Court, Coimbatore.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 23.05.2010 and they blessed with a male child on 12.06.2011. After marriage, both of them lived together for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.86 of 2017 for divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Kulithalai Taluk has filed the above petition at the Principal Subordinate Court, Kulithalai, whereas the petitioner is residing at Coimbatore, along with her aged parents and she is depending upon her aged parents and it is very difficult for her to travel about 250 kms from Coimbatore to Kulithalai, along with the 5 year old child, for attending each and every hearing of the case.

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

4. The learned Counsel for the respondent would submit that the respondent has no objection for transferring the case, however, the same may be transferred to the file of the Subordinate Judge, Coimbatore.



5. At this juncture, the learned counsel for the petitioner submitted that he has no objection in transferring the same to the file of the Subordinate Judge, Coimbatore.

6. Heard the learned Counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

7. 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 application. In view of the above and also considering the submission of the learned counsel for the respondent, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Principal Subordinate Judge, Kulithalai is directed to transmit the entire records in H.M.O.P.No.86 of 2017 to the file of the Subordinate Judge, Coimbatore within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Coimbatore, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.86 of 2017 on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of records.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

1.The Principal Subordinate Judge, Kulithalai.

2.The Subordinate Judge, Coimbatore.

Copy to:

The Principal District Judge, Coimbatore.

+1cc to Mr.J.M.Hassanul Bazari, Advocate, SR.No. 57802

+1cc to Mr.G.Sridharan, Advocate, SR.No.58133

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