



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD) .No.48 of 2018

and

C.M.P(MD)No.1173 of 2018

J.Mahamoodhunisha

... Petitioner/Respondent

Vs.

Jaffer Sheriff

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the suit in O.S.No.3 of 2018 on the file of the Family Court, Coimbatore and transfer the same to the file of the Family Court, Madurai.

For petitioner : Mr.T.R.Jeyapalam

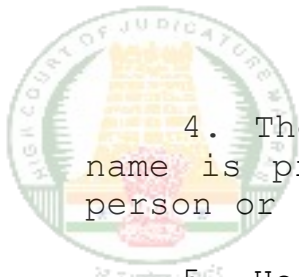
For respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of O.S.No.3 of 2018 from the file of the Family Court, Coimbatore 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 14.01.2010. After marriage, both of them lived happily for some time and they blessed with a male child and he is now aged about 6 years. While so, due to misunderstanding, the respondent herein / husband of the petitioner has filed O.S.No.3 of 2018 for restitution of conjugal rights. The grievance of the petitioner is that the respondent being a resident of Coimbatore has filed the above petition at the Family Court, Coimbatore, whereas the petitioner is residing at Madurai, along with her aged parents and hence, it is very difficult for her to travel about 300 kms along with her child from Madurai to Coimbatore 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 Family Court Judge, Coimbatore is directed to transmit the entire records in O.S.No.3 of 2018 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 O.S.No.3 of 2018 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,

1.The Family Court, Coimbatore.

2.The Family Court, Madurai.

+1cc to Mr.T.R.Jeyapalam, Advocate Sr.No.56063

GCG

VB/SV/MMS/SAR2/28.03.2018/2P/4C

TR. C.M.P (MD) .No.48 of 2018
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