



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD).No.50 of 2018
and
C.M.P(MD)No.1175 of 2018

Kavitha ... Petitioner/Respondent

Vs.

Sathiyakumar ... 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.216 of 2017 on the file of the Subordinate Court, Namakkal and transfer the same to the file of the Family Court, Trichy.

For petitioner : Mr.T.Lenin Kumar
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.216 of 2017 from the file of the Subordinate Court, Namakkal to the file of the Family Court, Trichy.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 12.12.2013. After marriage, both of them lived happily for some time. Now, the respondent herein / husband of the petitioner has filed H.M.O.P.No.216 of 2017 for divorce. The grievance of the petitioner is that the respondent being a resident of Namakkal has filed the above petition at the Subordinate Court, Namakkal, whereas the petitioner is residing at Trichy, along with her aged parents and she depends upon her parents and it is very difficult for her to travel about 90 kms from Trichy to Namakkal 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, Namakkal is directed to transmit the entire records in H.M.O.P.No.216 of 2017 to the file of the Family Court, Trichy, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Trichy, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.216 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 copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Namakkal.

2.The Judge, Family Court, Trichy.

+1cc to M/S.T.Lenin Kumar, Advocate SR.No. 56325

TR. C.M.P(MD) .No.50 of 2018
19.03.2018

gcg

JM/SV MMS/SAR 4/05.04.2018/2P/4C