



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2018

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P (MD) .No.53 of 2018

and

C.M.P (MD) No.1208 of 2018

Shyamala Devi

... Petitioner/Respondent

Vs.

R.Ashok Kumar

... 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.249 of 2017 on the file of the Principal Subordinate Court, Tirupur, Tirupur District and transfer the same to the file of the Sub Court, Periyakulam, Theni District.

For Petitioner : Mr.G.Gomathi Sankar

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.249 of 2017 from the file of the Principal Subordinate Court, Tirupur, Tirupur District to the file of the Sub Court, Periyakulam, Theni District.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 23.02.2004. After marriage, both of them lived happily for some time and they blessed with two children. While so, the respondent herein / husband of the petitioner has filed H.M.O.P. No.249 of 2017 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Tirupur has filed the above divorce petition at Principal Subordinate Court, Tirupur, whereas the petitioner is residing at Periyakulam, along with two children and they are studying at Periyakulam and hence, it is very difficult for her to travel about 250 kms along with her children from Periyakulam to Tirupur 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 Principal Subordinate Judge, Tirupur, Tirupur District, is directed to transmit the entire records in H.M.O.P.No.249 of 2017 to the file of the Subordinate Court, Periyakulam, Theni District, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Periyakulam, Theni District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.249 of 2017 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge, Tirupur, Tirupur District
2. The Subordinate Judge, Periyakulam, Theni District,

+1 cc to M/S.G.Gomathi Sankar, Advocate IN SR No.55341

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