



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.73 of 2018
and
C.M.P(MD)No.1731 of 2018

Manimegalai ... Petitioner/Respondent
Vs.

B.Venkateshwaran ... Respondent/Appellant

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case in H.M.O.P.No.322 of 2017 on the file of the Family Court, Sivagangai and transfer the same to the Family Court, Madurai and to try with Cr.M.P.No.258 of 2015 in M.C.No.83 of 2014 before Family Court, Madurai.

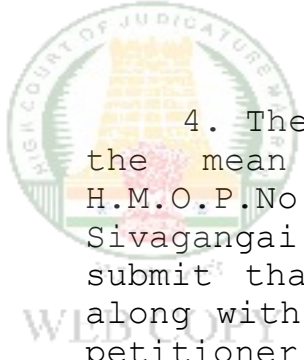
For Petitioner : Mr.S.Sivaprakash

For Respondent : No representation

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.322 of 2017, from the file of the Family Court, Sivagangai to Family Court, Madurai, so as to try the same along with Cr.M.P.No.258 of 2015 in M.C.No.83 of 2014, which is pending before the Family Court, Madurai.

2. The learned Counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 19.05.2010, at Sivankovil, Sivagangai. After marriage, both of them lived happily for quite some period and out of the wedlock, she gave birth to a female child, by name, Kanishka, on 14.02.2011. Thereafter, according to the petitioner, the respondent and his family started harassing and demanding dowry from the petitioner. Therefore, she has left the matrimonial house and has filed maintenance case in M.C.No.83 of 2014 before Family Court, Madurai and the same was ordered on 03.07.2015. In order to execute the same, she has filed Cr.M.P.No.258 of 2015 before the Family Court, Madurai and the same is pending.



4. The learned Counsel for the petitioner would submit that in the mean time, the respondent has filed a petition in H.M.O.P.No.322 of 2017 seeking divorce before the Family Court, Sivagangai. The learned Counsel for the petitioner would further submit that as the petitioner is residing at her parental home along with her seven years old girl, it is very difficult for the petitioner to travel from Madurai to Sivagangai for attending each and every hearing of the case in H.M.O.P.No.322 of 2017. Therefore, she has come forward with the present petition.

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

6. It is seen that though notice was ordered by this Court on 27.02.2018, the same was returned with an endorsement "refused". Moreover, despite the respondent's name was printed in the cause list, there is no representation on his behalf, either in person or through Counsel.

7. 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.

8. Accordingly, this petition is allowed and the learned Judge, Family Court, Sivagangai, is directed to transmit the entire records in H.M.O.P.No.322 of 2017 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of copy of this order. The learned Judge, Family Court, Madurai, shall try both H.M.O.P.No.322 of 2017 as well as Cr.M.P.No.258 of 2015 in M.C.No.83 of 2014 together and dispose of the same, as expeditiously as possible, in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

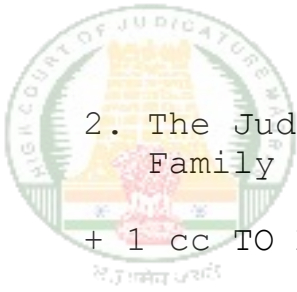
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Judge,
Family Court, Sivagangai.



2. The Judge,
Family Court, Madurai.

+ 1 cc TO Mr.S.Siva Prakash , Advocate in SR No. 55019

gk

AE/SV MMS/SAR2/21.03.2018/3P/4C

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