



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.74 of 2018
and
C.M.P(MD)No.1732 of 2018

M.Paramasivam

... Petitioner/Respondent

Vs.

P.Santhanalakshmi

... Respondent/Petitioner

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.301 of 2017 on the file of the III-Subordinate Court, Madurai Camp at Melur and transfer the same to the file of the Subordinate Court, Theni.

For petitioner : Mr.A.Gandiappan
For respondent : Ms.K.Malathi

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / husband seeking transfer of H.M.O.P.No.301 of 2017 from the file of the III-Subordinate Court, Madurai Camp at Melur to the file of the Subordinate Court, Theni.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 07.09.2003. After marriage, both of them lived happily for some time and they blessed with a female child on 09.06.2004 and one male child on 19.11.2009. Thereafter, the respondent has got a job in BSNL Department as Technical Assistant and now she is working as Junior Technical Officer in BSNL, Uthamapalayam, Theni District. Later, the respondent herein / wife of the petitioner had picked up frequent quarrel even for petty issues and used to go to her parental home. While so, the respondent has filed H.M.O.P.No.301 of 2017 for divorce with the false allegations. The grievance of the petitioner is that though the respondent is working and residing at Chinnamanoor along with her children, in order to harass the petitioner, the respondent has wantonly filed H.M.O.P.No.301 of 2017 at the III-Subordinate Court, Madurai Camp at Melur. Due to



financial crisis, it is very difficult for the petitioner to attend the Court at Melur for each and every hearing of the case. Therefore, he has come up with this petition for the aforesaid prayer.

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 petitioner is addicted to liquor. Though the respondent is working and staying at Chinnamanoor, apprehending danger to her life and limb at the hands of the petitioner while attending the Court at Theni, she has filed H.M.O.P.No.301 of 2017 at Melur, within which jurisdiction her parental home is there. She would further submit that the respondent has already entered appearance through counsel and filed counter. In order to drag on the divorce proceeding, he has filed this petition. Thus, she prayed to dismiss this petition.

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

6. Admittedly, the petitioner has entered appearance before the Court below and filed counter affidavit. The distance between Theni and Madurai is only 75 kms. There is no valid reason assigned by the petitioner to grant the relief. More over, 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. In view of the above, I am not inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The III-Subordinate Judge,
Madurai Camp at Melur.

+ 1 CC TO Ms.K.MALATHI, ADVOCATE IN SR No. 56431

GCG

TE/KKR/SAR-4 : 04/04/2018 : 2P/3C