



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.76 of 2018

and

C.M.P(MD)No.1794 of 2018

J.Jayasudha

... Petitioner/Respondent

Vs.

M.Elamathian

... 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.183 of 2017 on the file of the Principal Subordinate Court, Thanjavur and transfer to the file of the Principal Subordinate Court, Trichy for disposal of the same in accordance with law.

For petitioner : Mr.A.Joel Paul Antony

For respondent : Mr.G.Karnan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.183 of 2017 from the file of the Principal Subordinate Court, Thanjavur to the file of the Principal Subordinate Court, Trichy.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 16.05.2008. After marriage, both of them lived happily for some time and they blessed with a male child, now aged about 8 years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.183 of 2017 seeking the relief of dissolution of marriage with the false allegations. The grievance of the petitioner is that the respondent being a resident of Thanjavur has filed the above petition at the Principal Subordinate Court, Thanjavur, whereas the petitioner is residing at Trichy, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 60 kms along with her child from Trichy to Thanjavur for attending each and every hearing of the case.



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 respondent has no objection for transferring the case. However, he prayed for a direction to the Court below to dispose of the case within a stipulated time.

5. Heard the learned Counsel for the petitioner and the learned counsel for the respondent 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. In view of the above and also considering the submission of the learned counsel for the respondent, 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, Thanjavur is directed to transmit the entire records in H.M.O.P.No.183 of 2017 to the file of the Principal Subordinate Judge, Trichy within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Principal Subordinate Judge, Trichy, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.183 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 a 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 Principal Subordinate Judge,
Thanjavur.

<https://hcservices.ecourts.gov.in/hcservices/>
2.The Principal Subordinate Judge,
Trichy.



+ 1 cc TO Mr.A.Joel Paul Antony , Advocate in SR No. 55890
+ 1 cc TO Mr.G.Karnan , Advocate in SR No. 55929

gcg

AE/JC/SAR1/26.03.2018/3P/5C

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