



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.85 of 2018
and
C.M.P(MD)No.1907 of 2018

Hema ... Petitioner/Respondent

Vs.

V.Saravanan ... 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.181 of 2017 on the file of the Family Court, Trichy and transfer the same to the file of the Subordinate Court, Thirumangalam.

For petitioner : Ms.P.Malini
For respondent : Mr.N.V.Nagenthiran

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.181 of 2017 from the file of the Family Court, Trichy to the file of the Subordinate Court, Thirumangalam.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 19.05.2016. After marriage, both of them lived happily for some time and they blessed with a male child and the child is now aged about one year. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.181 of 2017 for divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Trichy has filed the above petition at the Family Court, Trichy, whereas the petitioner is residing at Thirumangalam, Madurai District, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 250 kms along with her one year old child from Thirumangalam to Trichy 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 vehemently oppose to the grant of relief stating that there is a life threat to the respondent and hence, it would be very difficult for him to attend the Court at Thirumangalam.

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. Though it is contended by the learned counsel for the respondent that there is a life threat to the respondent, this Court is not inclined to accept the same as he has not produced any substantial document in support of the said contention. However, considering the submission of the respondent, this Court is inclined to direct the Court below to dispose of the suit within a stipulated period. In view of the above, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Family Court Judge, Trichy is directed to transmit the entire records in H.M.O.P.No.181 of 2017 to the file of the learned Subordinate Judge, Thirumangalam within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Thirumangalam, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.181 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 (W)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judge, Family Court, Trichy.
- 2.The Subordinate Judge, Thirumangalam.

+ 1 CC TO M/s.P.MALINI, ADVOCATE IN SR No. 56612