



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.03.2018

WEB COPY

CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P (MD) .No.86 of 2018
and
C.M.P (MD) No.1960 of 2018

B.Blessy Nitisha ... Petitioner/Respondent

Vs.

Jebin Samraj ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the I.D.O.P.No.18 of 2018 on the file of the District Court at Nagercoil and to transfer the same to any other competent Court at Tirunelveli.

For Petitioner : Mr.F.X.Eugene

For Respondent : Mr.S.Seenivasan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner seeking transfer of I.D.O.P.No.18 of 2018 from the file of the District Court at Nagercoil to any other competent Courts at Tirunelveli.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 24.05.2017. Both of them are Doctors by profession. After marriage, they lived together happily for some time and the petitioner became pregnant. But, the respondent compelled the petitioner to undergo abortion, which was resisted by the petitioner and thereby, she went to her parental home. All the efforts made by the elders to reunite the parties ended in vain. In the meanwhile, ie., on 02.02.2018, the petitioner gave birth to a female child at her parental home. Even at that time, the respondent had not chosen to visit her or the child. But, to her shock and surprise, the respondent has filed I.D.O.P.No.18 of 2018 seeking divorce with false allegations. The grievance of the petitioner is that the respondent, being a resident of Nagercoil, has filed the above divorce petition at District Court, Nagercoil, whereas the petitioner is residing along with her aged parents at Tirunelveli and hence, it is very difficult for her to travel about 80 kms from Tirunelveli to Kanyakumari along with the newborn baby 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 object to the grant of relief. However, he would submit that in the event of this Court allowing the present petition, the transferee Court may be directed to dispose of the I.D.O.P., proceedings within a stipulated time.

5. Heard the learned counsel on either side 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 District Judge, Nagercoil, is directed to transmit the entire records in I.D.O.P.No.18 of 2018 to the file of the District Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned District Judge, Tirunelveli, after obtaining the records on transfer, is directed to dispose of I.D.O.P.No.18 of 2018, within a further period of six months, thereafter, in accordance with law.

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

1.The District Judge, Nagercoil.

2.The District Judge, Tirunelveli.

+1cc to Mr.L.VICTORIA GOWRI, Advocate, SR.No.58567

+1cc to Mr.F.X.EUGENE, Advocate, SR.No.58272

TR.C.M.P (MD) .No.86 of 2018
and
C.M.P (MD) No.1960 of 2018
27.03.2018

GCG