



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.87 of 2018

and

C.M.P(MD)No.1968 of 2018

A.M.Jenofer Fathima

... Petitioner/Defendant

Vs.

Mohamed Sheik Tharik

... Respondent/Plaintiff

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw the case in O.S.No.8 of 2018 on the file of the Family Court, Madurai and transfer the same to the file of the District Munsif Court, Ilayankudi or Family Court, Sivagangai for disposal of the same on merits and in accordance with law.

For petitioner : Mr.A.Arumugam

For respondent : Mr.G.Ghouse Kathiri

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of O.S.No.8 of 2018 from the file of the Family Court, Madurai to the file of the District Munsif Court, Ilayankudi or Family Court, Sivagangai.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 01.01.2012. After marriage, both of them lived together for some time and they blessed with a male child on 20.04.2013 and the child is now aged about 4 years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed O.S.No.8 of 2018 to annul the marriage with the false allegations. The grievance of the petitioner is that the respondent being a resident of Madurai has filed the above petition at the Family Court, Madurai, whereas the petitioner is residing at Ilayankudi, along with her aged parents and 4 years old child, and as she is depending upon her aged parents, it is very difficult for her to travel about 80 kms from Ilayankudi to Madurai, along with 4 years old child, 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. However, he would submit that in the event of allowing this petition, the Court below may be directed to dispose of the suit 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 application. 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, Madurai is directed to transmit the entire records in O.S.No.8 of 2018 to the file of the Family Court, Sivagangai within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Sivagangai, after obtaining the records on transfer, is directed to dispose of O.S.No.8 of 2018 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(T&P)

/True Copy/

Sub Assistant Registrar

To,

1.The Family Court Judge,



2.The Family Court Judge,
Sivagangai.

+ 1 cc TO M/S.Ajmal Associates , Advocate in SR No. 58575

+ 1 cc TO Mr.G.Ghouse Kathiri , Advocate in SR No. 57803

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AE/KKR/SAR3/17.04.2018/3P/5C

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