



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD) .No.164 of 2017
and
C.M.P. (MD) .No.3694 of 2017

Ilakkya

... Petitioner/Respondent

Vs.

V.Loganathan

... Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code to withdraw the case in H.M.O.P.No.19 of 2017 on the file of the Sub Court, Sivagangai and to transfer the same to the Sub Court at Ramanathapuram to be tried along with H.M.O.P.No.43 of 2017 pending there.

For Petitioner : Mr.N.S.Ponnaiah

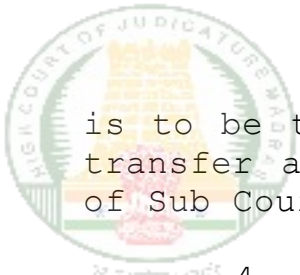
For Respondent : Mr.V.Muthukamatchi

O R D E R

The Transfer Civil Miscellaneous Petition has been filed to transfer the H.M.O.P.No.19 of 2017 on the file of the Sub Court, Sivagangai to the file of the Sub Court, Ramanathapuram to be tried along with H.M.O.P.No.43 of 2017.

2. The petitioner, who is the wife originally filed H.M.O.P.No.43 of 2017 before the Sub Court, Ramanathapuram for restitution of conjugal rights and the respondent/husband has filed H.M.O.P.No.19 of 2017 for divorce before the Sub Court, Sivagangai. Now, the petitioner/wife has filed the Transfer Civil Miscellaneous Petition to transfer the H.M.O.P.No.19 of 2017 filed by the respondent/husband from the file of Sub Court, Sivagangai to the file of Sub Court, Ramanathapuram, on the ground that she has to travel from Ramanathapuram to Sivagangai along with her child and aged parents.

3. The learned counsel appearing for the petitioner would submit that the Honourable Supreme Court of India, in the case of *Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta* reported in **2008 (9) SCC 353**, has held that convenience of woman



is to be taken into consideration at the time of considering the transfer applications seeking transfer of the case from the file of Sub Court, Sivagangai to the file of Sub Court, Ramanathapuram.

4. Per contra, the learned counsel appearing for the respondent would submit that life threat is there and hence, he has objected for transferring the case from the file of Sub Court, Sivagangai to the file of Sub Court, Ramanathapuram.

5. It is an admitted fact that the petitioner/wife has already filed H.M.O.P.No.43 of 2017 before the Sub Court, Ramanathapuram for restitution of conjugal rights and the respondent/husband has filed H.M.O.P.No.19 of 2017 before the Sub Court, Sivagangai for divorce. Therefore, this Court is inclined to transfer the H.M.O.P.No.99 of 2017 from the file of Sub Court, Sivagangai to the file of Sub Court, Ramanathapuram along with H.M.O.P.No.43 of 2017 for joint trial. Accordingly, the Transfer Civil Miscellaneous Petition is allowed with the following directions:

i) The Sub Court, Sivagangai is directed to transmit the entire records in H.M.O.P.No.19 of 2017 to the file of Sub Court, Ramanathapuram within a period of two weeks from the date of receipt of a copy of this order.

ii) the Sub Court, Ramanathapuram after obtaining the records on transfer, is directed to dispose of the H.M.O.P.(MD).Nos.19 of 2017 and 43 of 2017 within a period of three months.

iii) If any life threat faced by the respondent from the petitioner and her family members, the local police is directed to give appropriate police protection, if any complaint has been given by the respondent/husband.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,

<https://hcservices.ecourt.gov.in/hcservices/>



2. The Subordinate Judge,
Ramanathapuram.

+ 1 cc TO Mr.N.S.Ponnaiah , Advocate in SR No. 61761

akv

AE/RSK/SAR2/18.05.2018/3P/4C

Tr.C.M.P. (MD) No.164 of 2017
17.04.2018