



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD).No.414 of 2017
and
C.M.P(MD)No.8352 of 2017

Poongodi

... Petitioner/Respondent

Vs.

N.Gurusami

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the H.M.O.P.No.39 of 2017 on the file of the Sub Court, Paramakudi and transfer the same to the file of the Sub Court, Aruppukottai.

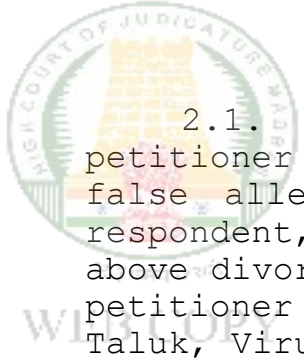
For Petitioner : Mr.R.Narayanan

For Respondent : Mr.D.Senthil

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.39 of 2017 from the file of the Sub Court, Paramakudi to the file of the Sub Court, Aruppukottai.

2.0. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 04.02.2010. After marriage, they lived together happily for some time and they blessed with a female child on 03.05.2011. According to the petitioner, thereafter, she was put to harassment by the respondent and his family members stating that she gave birth to a female child and they sent her out from the matrimonial home in September 2011 and the petitioner has been living in her parental home for about four years and later, at the intervention of elders, she again joined with the respondent / husband and lived in the matrimonial home. But, during November 2016, the respondent and his mother forcibly sent out the petitioner from the matrimonial home and thereafter, the petitioner again started to live at her parental home. As the petitioner is an unemployed women and she is suffering for livelihood, she has filed a petition for maintenance in M.C.No.17 of 2017 on the file of the Judicial Magistrate Court, Aruppukottai and the same is still pending.



2.1. While so, the respondent herein / husband of the petitioner has filed H.M.O.P.No.39 of 2017 seeking divorce with false allegations. The grievance of the petitioner is that the respondent, being a resident of Paramakudi Taluk, has filed the above divorce petition before the Sub Court, Paramakudi, whereas the petitioner is residing at Manoor Village, Narikudi Post, Thiruchuli Taluk, Virudhunagar District and hence, it is very difficult for her to travel about 35 kms from Narikudi Post to Paramakudi for attending each and every hearing of the case along with her child. Hence, she prays for transfer 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 distance between Thiruchuli Taluk to Paramakudi and Thiruchuli Taluk to Aruppukottai more or less same and therefore, this petition may be dismissed. However, he would submit that in the event of allowing this petition, this Court may direct the transferee Court to dispose of the same within a stipulated time.

5. At this juncture, the learned counsel the petitioner submitted that there is an easy access from Thiruchuli Taluk to Aruppukottai and as the maintenance case is pending before the Aruppukottai, it would be easy for her to appear before the Court at Aruppukottai and argue the case effectively or otherwise, she will have to travel for one case to Paramakudi and another case to Aruppukottai along with the seven years old child.

6. Heard the learned Counsel on either side and perused the materials available on record.

7. I am satisfied with the reasons stated in the affidavit filed in support of this petition and also the submission made by the learned Counsel for the petitioner. 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 Subordinate Judge, Paramakudi, is directed to transmit the entire records in H.M.O.P.No.39 of 2017 to the file of the Subordinate Court, Aruppukottai, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Aruppukottai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.39 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.

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/True Copy/

Sd/-

Assistant Registrar(CS-I)

Sub Assistant Registrar

To,

1.The Subordinate Judge, Paramakudi.

2.The Subordinate Judge, Aruppukottai.

+1CC to Mr.R,Narayanan, Advocate, SR.No. 57202

+1CC to Mr.D.Senthil, Advocate, SR.No. 58813

TR. C.M.P (MD) .No.414 of 2017
28.03.2018

gcg

AM/SKN RSK/SAR 4/18.04.2018/3P/5C