



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.538 of 2017

and

C.M.P(MD)No.11554 of 2017

M.Nandhini

... Petitioner/Respondent

Vs.

A.Vimalraj

... 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.135 of 2017 on the file of the Subordinate Court, Madurai at Melur Camp and transfer the same to the file of the Subordinate Court, Usilampatti.

For petitioner :Mr.O.S.Ramachandra Pradeep

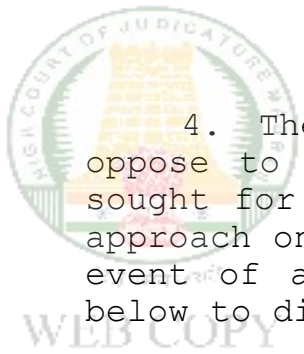
For respondent :Mr.S.Sivaprakash

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.135 of 2017, from the file of the Subordinate Court, Madurai District at Melur Camp to the file of the Subordinate Court, Usilampatti.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 24.02.2013. After marriage, both of them lived happily for some time and they blessed with two female children and the children are now aged 3-1/2 years about 2 years respectively. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.135 of 2017 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Chettikulam, Melur Taluk, Madurai District has filed the above divorce petition at the Subordinate Court, Madurai at Melur Camp, whereas the petitioner is residing at Usilampatti Taluk, 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 70 kms along with her child from Usilampatti to Melur, along with her children, 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 the transfer has been sought for within the District and therefore, the petitioner has to approach only the Court below. However, he would submit that in the event of allowing this petition, this Court may direct the Court below to dispose of the case 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. Though the transfer has been sought for within the District, considering the pathetic situation of the petitioner, this Court is inclined to allow this petition. More over, 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 Subordinate Judge, Madurai District at Melur Camp is directed to transmit the entire records in H.M.O.P.No.135 of 2017 to the file of the Subordinate Court, Usilampatti within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Usilampatti, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.135 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 Subordinate Judge, Madurai District at Melur.

2.The Subordinate Judge, Usilampatti.

+1CC to Mr.S.Siva Prakash, Advocate, SR.No. 58632

+1CC to Mr.S.Ramachandra Pradeep, Advocate, SR.No. SR.No.58345

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