



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.516 of 2017
and
C.M.P(MD)No.10892 of 2017

N.Anu Varshini

... Petitioner/Respondent

Vs.

P.Avudayappan

... 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.640 of 2017 on the file of the Family Court, Madurai and transfer the same to the file of the Subordinate Court, Neyveli to be tried along with H.M.O.P.No.43 of 2017 which is pending on its file.

For petitioner : Mr.P.Jaganathan
For respondent : Mr.P.S.Sivasubramanian

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.640 of 2017 from the file of the Family Court, Madurai to the file of the Subordinate Court, Neyveli to be tried along H.M.O.P.No.43 of 2017.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 10.07.2016. After marriage, both of them lived happily for some time. Later, the respondent herein / husband of the petitioner has filed H.M.O.P.No.640 of 2017 for divorce with the false allegations. Since the respondent refused to maintain the petitioner, the petitioner has also filed H.M.O.P.No.43 of 2017 for restitution of conjugal rights on the file of the Subordinate Court, Neyveli; M.C.No.14 of 2017 for maintenance on the file of the District Munsif cum Judicial Magistrate Court, Neyveli and D.V.C.No.8 of 2017 on the file of the District Munsif cum Judicial Magistrate Court, Neyveli. 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 Neyveli, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 270 kms from Neyveli to Madurai 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.

5. Heard the learned Counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. After hearing both sides, when this Court pointed out that the convenience of the woman is paramount, as per the decision of the Hon'ble Supreme Court in **2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, the learned counsel for the respondent submitted that there is no presiding Judge at Neyveli and if the matter is transferred to some other place, it would be convenient for both the parties and the case would be disposed of at the earliest and hence, he requested to transfer the matter at Ulunthoorpettai. The learned counsel for the petitioner vehemently opposed to transfer the case to the said place stating that in-charge Judge is available, however, he has no objection in transferring the matter at Panruti, as it is a shorter distance and convenient for the petitioner.

7. Considering the facts and circumstances of the case and also the convenient of the petitioner, 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 H.M.O.P.No.640 of 2017 to the file of the learned Subordinate Judge, Panruti within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Neyveli is also directed to transmit the entire records in H.M.O.P.No.43 of 2017 to the file of the learned Subordinate Judge, Panruti within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Panruti, after obtaining the records on transfer, is directed to dispose of H.M.O.P.Nos.640 and 43 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 copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/



To

- 1.The Family Court Judge, Madurai.
- 2.The Subordinate Judge, Neyveli.
- 3.The Subordinate Judge, Panruti.

+ 1 CC TO Mr.P.JAGANATHAN, ADVOCATE IN SR No. 56158
+ 1 CC TO Mr.P.KUMAR, ADVOCATE IN SR No. 56376

GCG

TE/SKN-RSK/SAR-1 : 28/03/2018 : 3P/6C

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