



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.539 of 2017

and

C.M.P(MD)No.11580 of 2017

N.Sivaranjani

... Petitioner/Respondent

Vs.

S.Kumaran

... 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.738 of 2017 on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Family Court, Sivagangai.

For petitioner : Mr.D.Sadiqraja

For respondent : Mr.M.S.Sivaprakash

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.738 of 2017, from the file of the Subordinate Court, Tambaram to the file of the Family Court, Sivagangai.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 07.06.2015. After marriage, both of them lived happily for some time and they blessed with a female child. While so, the respondent herein / husband of the petitioner has filed H.M.O.P.No.738 of 2017 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Chennai has filed the above divorce petition at Subordinate Court, Tambaram, whereas the petitioner is residing at Sivagangai District, along with 9 months old female child and hence, it is very difficult for her to travel about 450 kms along with her child from Sivagangai to Tambaram 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 submit that the respondent has no objection for transferring the case. However, he prays for a direction to 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. 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, Tambaram is directed to transmit the entire records in H.M.O.P.No.738 of 2017 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 H.M.O.P.No.738 of 2017 on merits and in accordance with law, as expeditiously as possible, preferably within a period of one year 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 Subordinate Judge,



2.The Judge,
Family Court,
Sivagangai.

+1 cc TO Mr.D.Sadiqraja , Advocate in SR No. 46836

+1 cc TO Mr.S.Sivaprakash , Advocate in SR No. 46636

gcg

AE/JC/SAR1/19.02.2018/3P/5C

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