



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.52 of 2018
and
CMP(MD)No.1194 of 2018

L.Nanthini

... Petitioner

vs.

Makesh

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw and to transfer the HMOP.No.228 of 2016 on the file of the learned Principal Sub Court, Tanjavore to learned Chief Judicial Magistrate, Trichy.

For Petitioner : Mr.S.Vanchinathan
For Respondent : Mr.G.Karnan

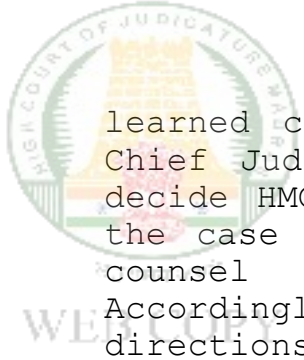
ORDER

This petition has been filed for a direction to transfer H.M.O.P.No.228 of 2016 from the Principal Sub Court, Tanjavore, to the Chief Judicial Magistrate Court, Trichy.

2.Learned counsel for the petitioner would aver among other things that the marriage between the petitioner and respondent was solemnized on 25.02.2015. Due to misunderstanding, they are living separately. While so, the respondent filed the above HMOP for divorce. The petitioner also filed M.C.No.37/2017 before the Chief Judicial Magistrate, Trichy, seeking maintenance from the respondent. Learned counsel further submitted that the petitioner is residing at Trichy, at her parental home and she is finding it difficult to travel to Tanjavore to attend every hearing of H.M.O.P.No.228 of 2016. Therefore, the petitioner has filed this transfer petition to transfer the case to the Chief Judicial Magistrate Court, Trichy, where, her M.C case is pending.

3.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.

4.Though the petitioner sought transfer of the case to the Chief Judicial Magistrate Court, Trichy, during the hearing,



learned counsel for the petitioner would fairly state that the Chief Judicial Magistrate Court, Trichy, has no jurisdiction to decide HMOP.No.228 of 2016 and therefore prayed for transfer of the case to the Principal Sub Court, Trichy, for which, learned counsel for the respondent did not have any objection. Accordingly, this petition is allowed with the following directions:-

i)The learned Judge, Principal Sub Court, Tanjavore, is directed to transmit the entire records in H.M.O.P.No.228 of 2016 to the file of the Principal Sub Court, Trichy, within a period of two weeks from the date of receipt of copy of this order.

ii)On receipt of the case papers in H.M.O.P.No.228 of 2016, the learned Judge, Principal Sub Court, Trichy, is directed to dispose of the same on merits and in accordance with law, as expeditious-ly as possible, preferably within a period of six months from the date of receipt of records.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1)The Judge, Principal Sub Court,
Trichy.

2)The Judge, Principal Sub Court,
Tanjavore.

+1CC TO MR.S.VANCHINATHAN, Advocate Sr. No.55210

+1CC TO MR.G.KARNAN, Advocate Sr. No. 55469

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TR (29.03.2019) 2P 5C