



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.10 of 2019

and

C.M.P(MD)No.233 of 2019

Vidhyayini

... Petitioner/Respondent

Vs.

Selvam

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.225 of 2017 pending before the Sub Court, Kovilpatti and transfer the same to the file of the Sub Court, Mudhukulathoor and to try it along with H.M.O.P.No.5 of 2018 pending before the Sub Court, Mudhukulathoor.

[Prayer amended as per order dated 02.04.2019 in CMP.(MD). No.2275/2019]

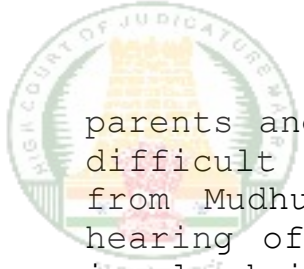
For Petitioner : M/s.P.Sepana @ Sree

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.225 of 2017 from the file of the Subordinate Court, Kovilpatti to the file of the Subordinate Court, Mudhukulathoor and to try along with H.M.O.P.No.5 of 2018 pending before the Sub Court, Mudhukulathoor.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 08.09.2014. After marriage, both of them lived happily for some time and they blessed with a female child and the child is now aged about 3 ½ years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.225 of 2017 before the Sub Court, Kovilpatti, seeking divorce with the false allegations. Subsequently, the petitioner / wife filed H.M.O.P.No.5 of 2018 for restitution of conjugal rights before the Sub Court, Mudhukulathoor. The grievance of the petitioner is that the respondent being a resident of Soorankudi has filed the above divorce petition at the Subordinate Court, Kovilpatti, whereas the petitioner is residing at Mudhukulathoor, along with her aged



parents and as she is depending upon her aged parents, it is very difficult for her to travel about 107 kms along with her child from Mudhukulathoor to Kovilpatti for attending each and every hearing of the case. It is further stated that since the issue involved in both the cases interrelated to each other, both the cases have to be tried together and therefore, she requested to transfer the petition filed by the respondent / husband in H.M.O.P.No.225 of 2017 to the file of the Sub Court, Mudhukulathoor and to direct the Sub Judge, Mudhukulathoor to try H.M.O.P.No.225 of 2017 along with H.M.O.P.No.5 of 2018, which is pending on his file, conduct joint trial and dispose of the same on merits.

3.The learned counsel for the petitioner reiterated the averments made in the petition.

4. Despite notice being served on the respondent and his name is being printed in the cause list, there is no representation on behalf of the respondent either in person or through Counsel.

5. Heard the learned counsel for the petitioner 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 application. Further, as rightly stated by the learned counsel for the petitioner, the issue involved in both the cases are interrelated to each other and therefore, the same should be tried together. The joint trial would not only save the valuable time of the parties but also the Court. 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 Sub Judge, Kovilpatti is directed to transmit the entire records in H.M.O.P.No.225 of 2017 to the file of the Subordinate Court, Mudhukulathoor within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Mudhukulathoor after obtaining the records on transfer, is directed to tag H.M.O.P.No.225 of 2017 along with H.M.O.P.No.5 of 2018 which is pending on his file, conduct joint trial and dispose

of the same on merits and in accordance with law, as expeditiously as possible.



No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To,

1.The Subordinate Judge, Kovilpatti.

2.The Subordinate Judge, Mudhukulathoor.

PJL

**ORDER MADE IN
TR.C.M.P (MD) .No.10 of 2019
24.04.2019**

KM/ (08.05.2019) 3P 3C