



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2019

CORAM

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

TR.C.M.P(MD)No.12 of 2019

and

C.M.P(MD)No.313 of 2019

S.J.Rahamath Jahan

... Petitioner/
Respondent

Vs.

A.Aslam

... Respondent/
Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw O.S.No.37 of 2018 pending before the Family Court, Tiruchirappalli and transfer the same to the file of the Family Court, Madurai, to be tried along with O.S.No.54 of 2018.

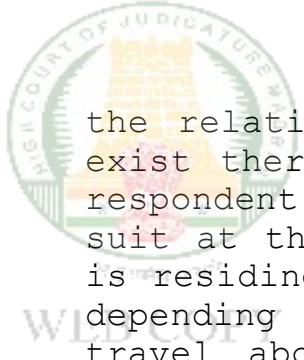
For Petitioner :Mr.P.Arun Jayatram

For Respondent :Mr.T.Lenin Kumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of O.S.No.37 of 2018, from the file of the Family Court, Tiruchirappalli to the file of the Family Court, Madurai to try along with O.S.No.54 of 2018.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 15.05.2006. After marriage, both of them lived happily for some time and they blessed with a female child and a male child and they are now aged about 10 years and 3 years respectively. Later, due to misunderstanding, the respondent herein / husband of the petitioner issued Talak Notice to the petitioner / wife. Therefore, she filed a suit in O.S.No.54 of 2018 before the Family Court, Madurai, seeking the relief of declaration, declaring that the Talak pronounced by the respondent / husband is null and void and also the consequential relief of restitution of conjugal rights. As a counter-blast, the respondent / husband has filed O.S.No.37 of 2018, seeking the relief of declaration, declaring that the marriage between him and the petitioner became terminated on 05.09.2018 with the pronouncement of final talaq and thereby



the relationship as husband and wife between them has ceased to exist thereafter. The grievance of the petitioner is that the respondent being a resident of Tiruchirappalli has filed the above suit at the Family Court, Tiruchirappalli, whereas the petitioner is residing at Madurai, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 130 kms along with her children from Madurai to Tiruchirappalli for attending each and every hearing of the case. Further, the issue involved in both the cases is interrelated to each other and therefore, both the cases have to be tried together and therefore, she requested to transfer the suit filed by the respondent / husband in O.S.No.37 of 2018 to the file of the Family Court, Madurai and to direct the learned Judge, Family Court, Madurai to try O.S.No.37 of 2018 along with O.S.No.54 of 2018, which is pending on his file.

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. 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.The petitioner filed O.S.No.54 of 2018 seeking the relief of declaration, declaring that the Talak pronounced by the respondent / husband is null and void and also the consequential relief of restitution of conjugal rights, before the Family Court, Madurai. The respondent filed O.S.No.37 of 2018, seeking the relief of declaration, declaring that the marriage between him and the petitioner became terminated on 05.09.2018 with the pronouncement of final talaq and thereby the relationship as husband and wife between them has ceased to exist thereafter, before the Family Court, Tiruchirappalli. 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. It is seen that the petitioner / wife is residing at Madurai and the respondent / husband is residing at Tiruchirappalli. 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

<https://hcservices.punjab.gov.in/hcservices/> now this petition and to transfer O.S.No.37 of 2018 to the file of the Family Court, Madurai for joint trial with



O.S.No.54 of 2018.

7. In view of the above, this Transfer Civil Miscellaneous Petition is allowed with the following direction:

i) The learned Judge, Family Court, Tiruchirappalli is directed to transmit the entire records in O.S.No.37 of 2018 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Judge, Family Court, Madurai, after obtaining the records on transfer, is directed to tag O.S.No.37 of 2018 along with O.S.No.54 of 2018, which is pending on his file, conduct joint trial and dispose of the same on merits and in accordance with law, preferably within a period of six months from the date of receipt of records relating to O.S.No.37 of 2018.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judge,
Family Court,
Tiruchirappalli.

2. The Judge,
Family Court,
Madurai.

+1 CC to M/s.P.ARUN JAYATRAM, Advocate (SR-64317[F] dated 30/04/2019)

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-64410[F] dated 30/04/2019)

smn

ORDER MADE IN
TR.C.M.P (MD) No.12 of 2019
and
C.M.P (MD) No.313 of 2019
30.04.2019

KM/ (21.05.2019) 3P 5C