



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.124 of 2019

and

C.M.P(MD)No.2744 of 2019

Rajapriya ... Petitioner/Respondent

Vs.

R.Elliah @ Lakshmi Prakash ... 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.744 of 2018 pending on the file of the Subordinate Court, Tambaram, Chennai and to transfer the same to the file of the Family Court, Madurai.

For petitioner : Mr.V.S.V.Venkateshvaran

For respondent : Mr.M.Anbarasi

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.744 of 2018 from the file of the Subordinate Court, Tambaram to the file of the Family Court, Madurai.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 11.02.2016. After marriage, both of them lived happily for some time. Later, the respondent herein / husband of the petitioner filed a petition in H.M.O.P.No.744 of 2018 on the file of the Subordinate Court, Tambaram, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent is the resident of Chennai and hence, he has filed the above divorce petition on the file of the Subordinate Court, Tambaram, 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 450 kms from Madurai to Tambaram, for attending each and every hearing of the case. Thus, he prayed to allow this petition.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel for the respondent vehemently opposed to



grant the 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.

4. Heard the learned counsel for both sides and perused the materials available on record.

5. Considering the submission of the learned counsel appearing for both sides and also considering the decision of the Hon'ble Supreme Court reported in **2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, wherein the Hon'ble Supreme Court has held that convenience of woman is to be taken into consideration first while considering transfer application, this Court is 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.744 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 Family Court Judge, Madurai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.744 of 2018 on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of records from the Subordinate Court, Tambaram.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Subordinate Judge,
Tambaram, Chennai

2.The Judge, Family Court,
Madurai.

+1cc to Mr.V.S.V.Venkateshvaran, Advocate, SR.No. 60049

+1cc to Mr.M.Anbarasi, Advocate, SR.No.59972

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