



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P (MD)No.125 of 2019

and

C.M.P (MD)No.2745 of 2019

Moogambikai

... Petitioner / Respondent

Vs.

D.Bhuvaneswaran

... 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.22 of 2019 pending before the Family Court, Sivagangai and transfer the same to the file of the Family Court, Theni.

For Petitioner : Mr.R.Suriyanarayanan

For Respondent : Mr.G.Senthil Kumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.22 of 2019 from the file of the Family Court, Sivagangai and transfer the same to the file of the Family Court, Theni.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 05.03.2007. After marriage, both of them lived happily for some time and they blessed with a female child and the child is now aged about 10 ½ years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.172 of 2011 seeking divorce with the false allegations before the Sub Court, Sivagangai. Thereafter, the said case was transferred to the Family Court, Sivagangai and renumbered as H.M.O.P.No.22 of 2019 and the same is pending. The grievance of the petitioner is that the respondent being a resident of Sivagangai has filed the above divorce petition at the Family Court, Sivagangai whereas the petitioner is residing at Theni along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 133 kms along with her child from Theni to Sivagangai 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 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. 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. 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 Judge, Family Court, Sivagangai is directed to transmit the entire records in H.M.O.P.No.22 of 2019 to the file of the Family Court, Theni within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Judge, Family Court, Theni, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.22 of 2019 on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

sd/
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court,
Sivagangai.
2. The Judge, Family Court,
Theni.

+1 CC to MR.R.SURIYANARAYANAN, Advocate (SR-61191[F] dated 16/04/2019)

**ORDER MADE IN
TR.C.M.P (MD) .No.125 of 2019
16.04.2019**

PJL