



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD) .No.128 of 2019

and

C.M.P (MD) No.2759 of 2019

T.Vimala Devi

... Petitioner/Respondent

Vs.

M.Thesingu Rajan

... 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.303 of 2018 pending on the file of the Family Court, Dindigul and to transfer the same to the file of the Subordinate Court, Melur, Madurai District.

For petitioner :Mr.K.Suresh Pandiyaraja

For respondent :Mr.P.Raja Ravikumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.303 of 2018 from the file of the Family Court, Dindigul to the file of the Subordinate Court, Melur, Madurai District.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 07.02.2011. After marriage, both of them lived happily for some time and they blessed with a male child and now the child is aged about 8 years. Later, the respondent herein / husband of the petitioner filed a petition in H.M.O.P.No.303 of 2018 on the file of the Family Court, Dindigul, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent is the resident of Dindigul and hence, he has filed the above divorce petition on the file of the Family Court, Dindigul, whereas the petitioner is residing at Melur, Madurai District, along with her aged parents and 8 years old child and as she is depending upon her aged parents, it is very difficult for her to travel about 70 kms, from Melur to Dindigul, along with the child, for attending each and every hearing of the case. Thus, he prayed to allow this

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 Family Court Judge, Dindigul, is directed to transmit the entire records in H.M.O.P.No.303 of 2018 to the file of the Subordinate Court, Melur, Madurai District, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Melur, Madurai District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.303 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.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judge,Family Court,
Dindigul.

2.The Subordinate Judge,
Melur, Madurai District.

+1cc to Mr.G.Dinesh, Advocate, SR.No.60824

+1cc to Mr.P.Raja Ravikumar,Advocate, SR.No.61049

TR. C.M.P(MD).No.128 of 2019

12.04.2019