



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**TR.CMP(MD)No.134 of 2018
and
CMP(MD)No.2847 of 2019**

Backiyalakshmi @ Preethi ... Petitioner/Respondent

vs.

Chandrasekaran ... Respondent/Petitioner

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the HMOP.No.173 of 2018 pending on the file of the Subordinate Judge, Aruppukottai, and transfer the same to the learned Sub Court, Virudhunagar, to try along with HMOP.No.20 of 2019 pending on the file of Sub Court, Virudhunagar.

For Petitioner : Mr.M.Nandhini Priyadharshini

For Respondent : No appearance

ORDER

This petition has been filed for a direction to transfer HMOP.No.173 of 2018 from the Sub Court, Aruppukottai, to the Sub Court, Virudhunagar, to try along with HMOP.No.20 of 2019.

2.Learned counsel for the petitioner would aver among other things that the marriage between the petitioner and respondent was solemnized on 05.12.2016 as per the Hindu rites and customs. Due to misunderstanding, they are living separately. While so, the respondent filed HMOP.No.173 of 2018 before the Sub Court, Aruppukottai, for divorce and the petitioner also filed HMOP.No.20 of 2019 before the Sub Court, Virudhunagar, for restitution of conjugal rights. Learned counsel further submitted that she is finding it difficult to travel to Aruppukottai, to attend every hearing of HMOP.No.173 of 2018. Therefore, the petitioner has filed this transfer petition.

3.Depite service of notice, there is no appearance on behalf of the respondent either by himself or through counsel and therefore, this Court is inclined to pass orders on merits.

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

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



5.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 while considering transfer application. In view of the above, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, being satisfied with the reasons stated in the affidavit filed in support of this petition, this petition is allowed with the following directions:-

i)The learned Judge, Sub Court, Aruppukottai, is directed to transmit the entire records in HMOP.No.173 of 2018 to the file of the Sub Court, Virudhunagar, within a period of two weeks from the date of receipt of copy of this order.

ii)On receipt of the case papers in HMOP.No.173 of 2018, the learned Judge, Sub Court, Virudhunagar, is directed to conduct joint trial of HMOP.No.173 of 2018 and 20 of 2019 and dispose of the same 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 in HMOP.No.173 of 2018.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1)The Judge,
Sub Court,
Virudhunagar.

2)The Judge,
Sub Court,
Aruppukottai.

+1 CC to M/s.M.NANDHINI PRIYADHARSHINI, Advocate in SR-61385

TR.CMP (MD) No.134 of 2019
15.04.2019

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PK/26.04.2019 : 2P/4C