



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P (MD) No.137 of 2019

and

C.M.P (MD) Nos.3013 and 3014 of 2019

Gayathri

... Petitioner

Vs.

Karthik Raja

... Respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.4823 of 2018 pending before the Family Court No.III, Chennai and transfer the same to the file of the Sub Court, Melur, Madurai District.

For Petitioner : Mr.S.Vinayagam

For Respondent : Mr.S.Balaji

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.4823 of 2018, from the file of the Family Court No.III, Chennai to the file of the Sub Court, Melur, Madurai District.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 24.01.2011. After marriage, both of them lived happily for some time and they blessed with a female child and the child is now aged about 7 ½ years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.4823 of 2018 seeking divorce with the false allegations before the Family Court No.III, Chennai. The grievance of the petitioner is that the respondent being a resident of Chennai has filed the above divorce petition at the Family Court No.III, Chennai, 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 462 kms along with her child from Madurai to Chennai for attending each and every hearing of the case.

<https://hcservices.ecourts.gov.in/hcservices> 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 No.III, Chennai, is directed to transmit the entire records in H.M.O.P.No.4823 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.4823 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 a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judge, Family Court No.III, Chennai.

2. The Subordinate Judge, Melur, Madurai District.

+1 CC to M/s.S.BALAJI, Advocate in SR-61199

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate in SR-61647

TR.C.M.P(MD).No.137 of 2019

16.04.2019