



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.14 of 2019

and

C.M.P(MD)No.355 of 2019

A.Shunmuga Sundari

... Petitioner/
Respondent

Vs.

K.Arun Kumaar

... 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.776 of 2018 pending on the file of the Sub Court, Thambaram and transfer the same to the file of the Family Court, Tirunelveli, for having joint trial along with H.M.O.P.No.331 of 2018 pending on the file of the Family Court, Tirunelveli.

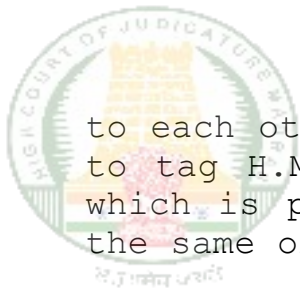
For Petitioner :Mr.H.Arumugam

For respondent :Mr.K.Rajeshwaran

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.776 of 2018 from the file of the Subordinate Court, Thambaram to the file of the Family Court, Tirunelveli and to try the same along with H.M.O.P.No.331 of 2018.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 09.11.2016. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner filed H.M.O.P.No.776 of 2018 on the file of the Subordinate Court, Thambaram for divorce. Thereafter, the petitioner filed H.M.O.P.No.331 of 2018 for restitution of conjugal rights before the Family Court, Tirunelveli. The grievance of the petitioner is that the respondent being a resident of Chennai has filed the above petition at the Subordinate Court, Thambaram, whereas the petitioner is residing at Tirunelveli, along with her aged parents, and as she is depending upon her aged parents and she has no wherewithal, it is very difficult for her to travel about 600 kms from Tirunelveli to Thambaram by spending money, to attend each and every hearing of the case. Thus, he prayed to transfer H.M.O.P.No.776 of 2018 to the file of the Family Court, Tirunelveli. He would further submit that as the issues involved in both the H.M.O.Ps. are interrelated



to each other, this Court may direct the Family Court, Tirunelveli to tag H.M.O.P.No.776 of 2018 along with H.M.O.P.No.331 of 2018, which is pending on his file, conduct joint trial and dispose of the same on merits.

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 both the cases within a stipulated time.

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

5. I am satisfied with the reasons stated by the petitioner. 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. Further, as rightly stated by the learned counsel for the petitioner, the issue involved in both the H.M.O.Ps are interrelated to each other and therefore, the same can be directed to try together. The joint trial would not only save the valuable time of the parties but also the Court. 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 Subordinate Judge, Thambaram is directed to transmit the entire records in H.M.O.P.No.776 of 2018 to the file of the Family Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Tirunelveli, after obtaining the records on transfer, is directed to tag H.M.O.P.No.776 of 2018 along with H.M.O.P.No.331 of 2018 pending on his file, conduct joint trial 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.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //



To

1.The Subordinate Judge,
Thambaram.

2.The Family Court Judge,
Tirunelveli.

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-64477[F] dated 30/04/2019)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-64860[F] dated 02/05/2019)

gcg

ORDER MADE IN
TR.C.M.P (MD) No.14 of 2019
29.04.2019

KM/ (22.05.2019) 3P 5C