



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

TR.C.M.P (MD)No.142 of 2019

and

C.M.P (MD)No.3142 of 2019

S.Pandeeswari

.. Petitioner / Respondent

Vs.

T.Kumaresan

.. 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.5 of 2019 pending before the Sub Court, Periyakulam and transfer the same to the file of the Family Court, Srivilliputhur.

For Petitioner : Mr.S.Kumaravel

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.5 of 2019, from the file of the Subordinate Court, Periyakulam, to the file of the Family Court, Srivilliputhur.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 17.09.2015. After marriage, both of them lived happily for some time and they blessed with two male children and they are now aged about 2 ½ years and 9 months, respectively. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.5 of 2019 before the Sub Court, Periyakulam, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Periyakulam has filed the above divorce petition at the Subordinate Court, Periyakulam, whereas the petitioner is residing at Mamsapuram Village, Virudhunagar District along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 80 kms along with her children from Mamsapuram to Periyakulam for attending each and every hearing of the case.



3. The learned counsel for the petitioner reiterated the averments made in the petition.

4. Despite notice being served on the respondent and his name is being printed in the cause list, there is no representation on behalf of the respondent either in person or through Counsel.

5. Heard the learned counsel for the petitioner 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 Subordinate Judge, Periyakulam, is directed to transmit the entire records in H.M.O.P.No.5 of 2019 to the file of the Family Court, Srivilliputhur, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Judge, Family Court, Srivilliputhur, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.5 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 (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Subordinate Judge, Periyakulam.

2. The Judge, Family Court, Srivilliputhur.

+1 CC to M/s.G.M.LAW OFFICE, Advocate SR-64398.

**ORDER MADE IN
TR.C.M.P(MD) .No.142 of 2019
30.04.2019**