



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.147 of 2019

and

C.M.P(MD)No.3171 of 2019

M.Geetha

... Petitioner/Respondent

Vs.

N.Prabu

... 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.12 of 2019 pending on the file of the Subordinate Court, Thuraiyur, Tiruchirappalli and to transfer the same to the file of the Family Court, Trichy.

For Petitioner :Mr.A.J.Mohamed Kassim

For Respondent :Mr.N.Mohan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.12 of 2019 from the file of the Subordinate Court, Thuraiyur, Trichy to the file of the Family Court, Trichy.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 10.02.2016. After marriage, both of them lived happily for some time and they blessed with a female child and now the child is aged about 2-1/2 years. Later, the respondent herein / husband of the petitioner filed a petition in H.M.O.P.No.12 of 2019 on the file of the Subordinate Court, Thuraiyur, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent is the resident of Alathudaiyanpatty Village, Thuraiyur Taluk and hence, he has filed the above divorce petition on the file of the Subordinate Court, Thuraiyur, whereas the petitioner is residing at Trichy, along with her 2-1/2 years old child and as she is working at Trichy and she has to take care her child, it is very difficult for her to travel about 50 kms from Trichy to Thuraiyur for attending each and every hearing of the case. Thus, he prayed to allow this petition.



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.

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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 Subordinate Judge, Thuraiyur, is directed to transmit the entire records in H.M.O.P.No.12 of 2019 to the file of the Family Court, Trichy, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Trichy, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.12 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 records.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

gcg
To

- 1.The Subordinate Judge, Thuraiyur, Trichy.
- 2.The Family Court Judge, Trichy.

1CC TO MR. A.J. MOHAMED KASSIM, ADVOCATE SR 60428
1CC TO MR. N. MOHAN, ADVOCATE SR 60679

DS

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