



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.151 of 2019  
and  
C.M.P(MD)No.3215 of 2019

S.Gold Jaya

... Petitioner / Respondent

Vs.

A.Jayakumar

... Respondent / Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw D.V.O.P.No.40 of 2018 pending before the District Judge No.II, Kanchipuram and transfer the same to the Family Court at Nagercoil, Kanyakumari District for joint trial along with I.D.O.P.No.27 of 2019 pending before the Family Court at Nagercoil, Kanyakumari District.

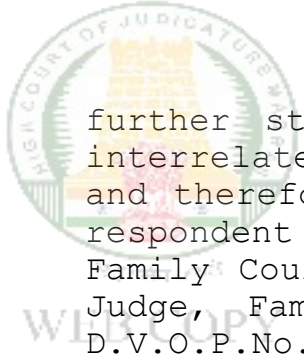
For Petitioner  
For Respondent

: Mr.C.Sankar Prakash  
: No appearance

**ORDER**

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of D.V.O.P.No.40 of 2018 from the file of the District Court No.II, Kanchipuram, to the file of the Family Court at Nagercoil, Kanyakumari District and to try along with I.D.O.P.No.27 of 2019, pending before the Family Court at Nagercoil, Kanyakumari District.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 27.12.2012. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed D.V.O.P.No.40 of 2018 before the District Court No.II at Kanchipuram, seeking divorce with false allegations. Subsequently, the petitioner / wife filed I.D.O.P.No.27 of 2019 for restitution of conjugal rights before the Family Court at Nagercoil, Kanyakumari District. The grievance of the petitioner is that the respondent being a resident of Kanchipuram District has filed the above divorce petition at the District Court No.II, Kanchipuram, whereas the petitioner is residing at Kanyakumari District along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 663 kms from Kanyakumari to Kanchipuram for attending each and every hearing of the case. It is



further stated that since the issue involved in both the cases interrelated to each other, both the cases have to be tried together and therefore, she requested to transfer the petition filed by the respondent / husband in D.V.O.P.No.40 of 2018 to the file of the Family Court at Nagercoil, Kanyakumari District and to direct the Judge, Family Court at Nagercoil, Kanyakumari District, to try D.V.O.P.No.40 of 2018 along with I.D.O.P.No.27 of 2019, which is pending on his file, conduct joint trial and dispose of the same on merits.

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. Further, as rightly stated by the learned counsel for the petitioner, the issue involved in both the cases are interrelated to each other and therefore, the same should be tried 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 District Judge No.II, Kanchipuram, is directed to transmit the entire records in D.V.O.P.No.40 of 2018 to the file of the Family Court at Nagercoil, Kanyakumari District, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Judge, Family Court at Nagercoil, Kanyakumari District, after obtaining the records on transfer, is directed to tag D.V.O.P.No.40 of 2018 along with I.D.O.P.No.27 of 2019, which is pending on his file, conduct joint trial and dispose of the same on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/TRUE COPY/



To

1.The Judge,  
Family Court at Nagercoil,  
Kanyakumari District.

2.The District Judge No.II,  
Kanchipuram.

+1 CC to M/s.C.SANKAR PRAKASH, Advocate ( SR-62405[F] dated  
25/04/2019 )

ORDER MADE IN  
**TR.C.M.P (MD) .No.151 of 2019**

SP:06/05/2019/3P/4C