



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2019

CORAM

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

TR.C.M.P(MD)No.18 of 2019

and

C.M.P(MD)No.496 of 2019

Shanmugasundari

... Petitioner/ Respondent

Vs.

Baskaran

... 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.130 of 2018 pending before the Sub Court, Srivilliputhur, Virudhunagar District and transfer the same to the file of the Family Court, Tiruchirappalli, Tiruchirappalli District.

For Petitioner : Mr.A.Thiruvadikumar

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.130 of 2018, from the file of the Subordinate Court, Srivilliputhur, Virudhunagar District, to the file of the Family Court, Tiruchirappalli, Tiruchirappalli District.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 15.02.2007. After marriage, both of them lived happily for some time and they blessed with a female child and a male child and they are now aged about 9 years and five years respectively. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.130 of 2018 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Rajapalayam, Virudhunagar District, has filed the above divorce petition at the Subordinate Court, Srivilliputhur, Virudhunagar District, whereas the petitioner is residing at Tiruchirappalli, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 250 kms. with her children from Tiruchirappalli to Srivilliputhur for attending each and every hearing of the case.



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

4.Since the notice sent to the respondent has been returned as 'not claimed', this Court ordered notice to the learned counsel, who appeared before the Court below on behalf of the respondent. Despite notice being served on the lower Court counsel 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, Srivilliputhur, Virudhunagar District, is directed to transmit the entire records in H.M.O.P.No.130 of 2018 to the file of the Family Court, Tiruchirappalli, Tiruchirappalli District, within a period of two weeks from the date of receipt of copy of this order.

ii)The learned Judge, Family Court, Tiruchirappalli, Tiruchirappalli District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.130 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 petition is closed.

Sd/-

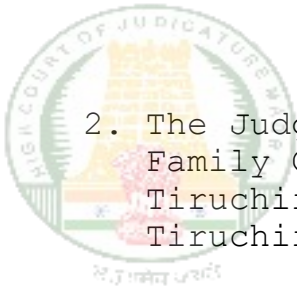
Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Subordinate Judge,
Srivilliputhur,
Virudhunagar District.



2. The Judge,
Family Court,
Tiruchirappalli,
Tiruchirappalli District.

+1 CC to MR.A.THIRUVADI KUMAR, Advocate (SR-61556[F] dated
22/04/2019)

**ORDER MADE IN
TR.C.M.P (MD) No.18 of 2019
and
C.M.P (MD) No.496 of 2019
22.04.2019**

SMN

AE (26.04.2019) 3P 4C