



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.04.2019**

CORAM

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

TR.C.M.P(MD)No.20 of 2019

and

C.M.P(MD)No.528 of 2019

T.Swarnalatha

... Petitioner/Respondent

Vs.

N.Yogeshwaran

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 read with Order Rule 1(2) of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.1020 of 2018 from the file of the Family Court, Madurai and transfer the same to the file of the Sub Court, Kovilpatti.

For Petitioner : Mr.N.Dilip Kumar

For Respondent : Mr.S.R.S.Balraj

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.1020 of 2018, from the file of the Family Court, Madurai to the file of the Subordinate Court, Kovilpatti.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 08.09.2013. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner deserted her and hence, the petitioner / wife filed H.M.O.P.No.123 of 2018 for restitution of conjugal rights before the Sub Court, Kovilpatti. The respondent / husband has also filed H.M.O.P.No.1020 of 2018 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Madurai has filed the above divorce petition at the Family Court, Madurai, whereas the petitioner is residing at Kovilpatti, along with her aged parents and as she is depending upon her aged parents, it is <https://hosevices.ecourts.gov.in/hosevices/> for her to travel about 135 kms from Kovilpatti to Madurai for attending each and every hearing of the case.



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

4.The learned Counsel for the respondent would vehemently oppose to the grant of 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.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6.The petitioner/wife filed H.M.O.P.No.123 of 2018 for restitution of conjugal rights before the Sub Court, Kovilaptti. The respondent/ husband filed H.M.O.P.No.1020 of 2018 seeking divorce on the file of the Family Court, Madurai. 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. 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 petition and to transfer H.M.O.P.No.1020 of 2018 to the file of the Sub Court, Kovilpatti for joint trial with H.M.O.P.No.123 of 2018.

7.Accordingly, this Transfer Civil Miscellaneous Petition is allowed with the following direction:

i)The learned Judge, Family Court, Madurai is directed to transmit the entire records in H.M.O.P.No.1020 of 2018 to the file of the Sub Court, Kovilpatti within a period of two weeks from the date of receipt of copy of this order.

ii)The learned Subordinate Judge, Kovilpatti, after obtaining the records on transfer, is directed to tag H.M.O.P.No.1020 of 2018 along with H.M.O.P.No.123 of 2018 which is pending on his file, conduct joint trial and dispose of the same on merits and in accordance with law, preferably within a period of six months from the date of receipt of records relating to H.M.O.P.No.1020 of 2018.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /



1.The Judge,
Family Court,
Madurai.

2.The Subordinate Judge,
Kovilpatti.

+1 CC to M/s.K.MUTHUMALAI, Advocate (SR-60334[F] dated 11/04/2019)

+1 CC to M/s.N.DILIP KUMAR, Advocate(SR-60534[F] dated 11/04/2019)

ORDER MADE IN
TR.C.M.P (MD) No.20 of 2019
and
C.M.P (MD) No.528 of 2019
11.04.2019

ES/DS/26.04.2019/3P/5C