



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.22 of 2019

and

C.M.P(MD)No.577 of 2019

Rosemila Begum

... Petitioner/Respondent

Vs.

Abdul Salam

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw O.S.No.56 of 2018 pending on the file of the Family Court, Madurai and transfer the same to the file of the District Munsif Court, Karaikudi and try along with O.S.No.153 of 2018.

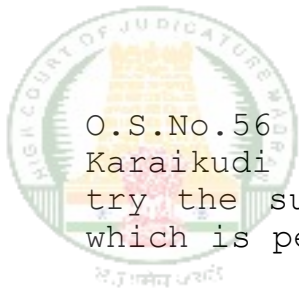
For petitioner : Mr.D.S.Haroon Rasheed

For respondent : Mr.A.Soukathali

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of O.S.No.56 of 2018 from the file of the Family Court, Madurai to the file of the District Munsif Court, Karaikudi to try along with O.S.No.153 of 2018.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 22.05.2001. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner filed a suit in O.S.No.56 of 2018 before the Family Court, Madurai for divorce. The petitioner / wife filed O.S.No.153 of 2018 for restitution of conjugal rights, before the District Munsif Court, Karaikudi. The grievance of the petitioner is that she is residing at Peerkalaikadu Post, Karaikudi Taluk and as she is depending upon her aged parents, it is very difficult for her to travel about 120 kms from Peerkalaikadu to Madurai for attending each and every hearing of the case. He would further submit that the ~~case~~ in both the suits are interrelated to each other and therefore, both the suits have to be tried together. Thus, he requested to transfer the suit filed by the respondent / husband in



O.S.No.56 of 2018 to the file of the District Munsif Court, Karaikudi and to direct the learned District Munsif, Karaikudi to try the suit in O.S.No.56 of 2018 along with O.S.No.153 of 2018, which is pending on its file.

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 suits within a stipulated time.

4. Heard the learned counsel for both sides and perused the materials available on record.

5. Considering the submission of the learned counsel for the petitioner and also the decision of the Hon'ble Supreme Court in reported in 2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta), wherein it has been held that convenience of woman is to be taken into consideration first while considering transfer application, this Court is inclined to transfer O.S.No.56 of 2018 to the file of the District Munsif Court, Karaikudi. As rightly stated by the learned counsel for the petitioner, the issue involved in both the suits 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, this Transfer Civil Miscellaneous Petition is allowed with the following direction:

i) The Family Court, Madurai, is directed to transmit the entire records in O.S.No.56 of 2018 to the file of the District Munsif Court, Karaikudi, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned District Munsif, Karaikudi, after obtaining the records on transfer, is directed to tag O.S.No.56 of 2018 along with O.S.No.153 of 2018 which is pending on its 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 O.S.No.56 of 2018.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Family Court Judge,
Madurai.

2.The District Munsif,
Karaikudi.

+1 CC to M/s.SOWKATHALI, Advocate in SR-61037

+1 CC to M/s.D.S.HAROON RASHEED, Advocate in SR-61222

TR.C.M.P (MD) No.22 of 2019
15.04.2019

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