



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

CORAM

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

TR.C.M.P(MD)No.30 of 2019

and

C.M.P(MD)No.1020 of 2019

Sarojini

... Petitioner/Respondent

Vs.

Dr.Kirubanantha Sarathy

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 read with 151 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.167 of 2018 pending before the Sub Court, Ramanathapuram and transfer the same to the file of the Principal Sub Court, Thanjavur.

For Petitioner : Mr.M.Karunanithi

For Respondent : Mr.T.R.Jeyapalam

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.167 of 2018, from the file of the Sub Court, Ramanathapuram to the file of the Principal Sub Court, Thanjavur.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 06.02.2014. After marriage, due to misunderstanding, the respondent / husband filed H.M.O.P.No.109 of 2017 on the file of the Sub Court, Ramanathapuram for restitution of conjugal rights. Thereafter, the issue has been settled between them and the said petition has been closed. Thereafter, both of them lived happily. Later, due to misunderstanding, the respondent harassed the petitioner and also filed H.M.O.P.No.167 of 2018 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Ramanathapuram, has filed the above divorce petition at the Sub Court, Ramanathapuram, whereas the petitioner is residing at Thanajvur, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 350 kms from Thanjavur to Ramanathapuram for attending each and every hearing of the case. She also apprehends threat at the hands of the respondent / husband.

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. He would also submit that the respondent / husband suffered from severe heart ailment due to the continuous mental torture of the petitioner / wife. The doctor advised him not to travel in any car or lift anything. He also submitted a copy of discharge summary issued to the respondent / husband by SRM Institute for Medical Science, Vadapalani, wherein it is stated as follows:

Provisional Diagnosis: Chronic Type A Dissection Trileaflet Aortic Valve Mild Aortic Regurgitation Good LV Function (EF - 61%) Normal Coronaries Systemic Hypertension.

Final Diagnosis : Chronic Type A Dissection Trileaflet Aortic Valve Mild Aortic Regurgitation Good LV Function (EF - 61%) Normal Coronaries Systemic Hypertension.

Surgery: Frozen Elephant Trunk + Aortic Arch Replacement by Using 24MM Vascutek Graft on 22.11.2018".

Thus, he prayed to transfer H.M.O.P.No.167 of 2018 to the file of the Court, which situates in the middle of Ramanathapuram and Thanjavur.

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

6.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 while considering transfer application. After elaborate arguments, in the present circumstances of the case, the learned counsel for the petitioner and the respondent agreed for transfer of the case to the Principal Sub Court, Madurai and accordingly, this petition is allowed with the following directions:

i)The learned Subordinate Judge, Ramanathapuram is directed to transmit the entire records in H.M.O.P.No.167 of 2018 to the file of the Principal Sub Court, Madurai within a period of two weeks from the date of receipt of copy of this order.

ii)The learned Principal Sub Judge, Madurai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.167 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 ()

// True Copy //



To

1. The Subordinate Judge,
Ramanathapuram.

2. The Principal Sub Judge,
Thanjavur.

3. The Principal Sub Judge,
Madurai.

+1 CC to M/s.M.KARUNANITHI, Advocate in SR-53920

+1 CC to M/s.T.R.JEYAPALAM, Advocate in SR-54253

TR.C.M.P (MD) No.30 of 2019
and
C.M.P (MD) No.1020 of 2019
14.03.2019

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SP/PK/10.04.2019 : 3P/6C