



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.31 of 2019

and

C.M.P(MD)No.1028 of 2019

Vasaga Selvi

... Petitioner/Respondent

Vs.

Prabhu

... 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.1 of 2019 on the file of the Subordinate Court, Sivakasi and transfer the same to the file of the Subordinate Court, Kovilpatti.

For petitioner :Ms.Lakshmi Gopinathan,
for M/s.Polax Legal Solutions

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.1 of 2019 from the file of the Subordinate Court, Sivakasi 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 27.08.2015. After marriage, both of them lived happily for some time and they blessed with a male child and the child is now aged about 2-1/2 years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed a petition in H.M.O.P.No.1 of 2019 on the file of the Subordinate Court, Sivakasi, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Sattur Taluk has filed the above divorce petition at the Subordinate Court, Sivakasi, whereas the petitioner is residing at Kovilpatti, along with her child and as she is working and staying at Kovilpatti, it is very difficult for her to travel about 50 kms along with her



child from Kovilpatti to Sivakasi for attending each and every hearing of the case.

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

4. Though notice served to the respondent and his name is printed in the cause list, none appears for the respondent.

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, Sivakasi is directed to transmit the entire records in H.M.O.P.No.1 of 2019 to the file of the Subordinate 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 dispose of H.M.O.P.No.1 of 2019 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Subordinate Judge,
Sivakasi.

2. The Subordinate Judge,
Kovilpatti.



+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-53703[F] dated 13/03/2019)

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