



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.35 of 2019

and

C.M.P(MD)No.1107 of 2019

Vaishnavi

... Petitioner/
Respondent

Vs.

D.Vijayaragavan

... 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.142 of 2018 pending before the Family Court, Srivilliputhur, Virudhunagar District and transfer the same to the file of the Principal Sub Court, Tenkasi, Tirunelveli District.

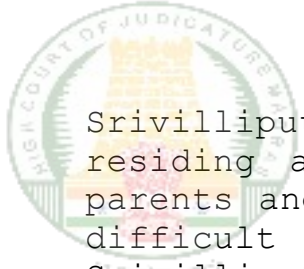
For Petitioner :Mr.S.Suresh Manickam

For Respondent :Mr.S.Saravanakumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.142 of 2018, from the file of the Family Court, Srivilliputhur, Virudhunagar District to the file of the Principal Sub Court, Tenkasi, Tirunelveli District.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 06.06.2016. After marriage, both of them lived happily for some time. Later, due to the constraint matrimonial relationship and psychiatric behaviour of the respondent, the respondent / husband and her in-laws have driven out her from the matrimonial home. When she was taking steps to prefer police complaint against the respondent and his family members, the respondent herein / husband of the petitioner has filed H.M.O.P.No.142 of 2018 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Srivilliputhur, Virudhunagar District has filed the above divorce petition at the Family Court,



Srivilliputhur, Virudhunagar District, whereas the petitioner is residing at Tenkasi, Tirunelveli District, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 90 kms from Tenkasi 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.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.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.142 of 2018 to the file of the Principal Sub Court, Tenkasi, Tirunelveli District, within a period of two weeks from the date of receipt of copy of this order.

ii)The learned Principal Subordinate Judge, Tenkasi, Tirunelveli District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.142 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 (w)

// True Copy //



To

1.The Judge,
Family Court,
Srivilliputhur,
Virudhunagar District.

2.The Principal Subordinate Judge,
Tenkasi,
Tirunelveli District.

+1 CC to M/s.S.SURESH MANICKAM, Advocate (SR-63819[F] dated 29/04/2019)

+1 CC to M/s.S.SARAVANA KUMAR, Advocate (SR-64186[F] dated 30/04/2019)

smn

ORDER MADE IN
TR.C.M.P (MD) No.35 of 2019
and
C.M.P (MD) No.1107 of 2019
29.04.2019

KM/ (07.05.2019) 3P 5C