



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.37 of 2019

and

C.M.P(MD)No.1161 of 2019

Rajammal

... Petitioner/1st respondent

Vs.

1.Vallinathan

... 1st respondent/Petitioner

2.Krishnan

... 2nd respondent/2nd respondent

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.21 of 2018 on the file of the Subordinate Court, Tiruchendur, Thoothukudi District and transfer the same to the file of the Family Court, Tirunelveli forthwith.

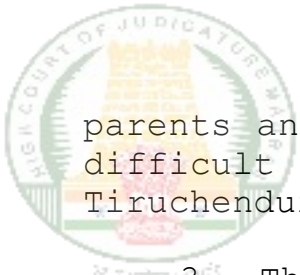
For petitioner :Mr.A.D.Ganeshamoorthi

For respondents :No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.21 of 2018 from the file of the Subordinate Court, Tiruchendur, Thoothukudi District to the file of the Family Court, Tirunelveli.

2. It is stated in the petition that the marriage between the petitioner and the first respondent was solemnized on 27.08.2015. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the first respondent herein / husband of the petitioner has filed a petition in H.M.O.P.No.21 of 2018 on the file of the Subordinate Court, Tiruchendur, seeking divorce with the false allegations. Subsequently, the petitioner herein filed H.M.O.P.No.25 of 2019 for restitution of conjugal rights and M.C.No.31 of 2018 for maintenance before the Family Court, Tirunelveli. The grievance of the petitioner is that the first respondent being a resident of Tiruchendur has filed the above divorce petition at the Subordinate Court, Tiruchendur, whereas the petitioner is residing at Tirunelveli along with her aged



parents and as she is depending upon her aged parents, it is very difficult for her to travel about 60 kms from Tirunelveli to Tiruchendur 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 respondents and their names are printed in the cause list, none appears for the respondents.

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 while considering transfer application. In view of the above, I am inclined to allow this Transfer Civil Miscellaneous Petition. Considering the fact that the issues involved in H.M.O.P.No.21 of 2018, H.M.O.P.No.25 of 2019 and M.C.No.31 of 2018 are interrelated to each other, this Court is inclined to direct the transferee Court to tag these cases together. Accordingly, this petition is allowed with the following directions:

i) The learned Subordinate Judge, Tiruchendur is directed to transmit the entire records in H.M.O.P.No.21 of 2018 to the file of the Family Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Tirunelveli, after obtaining the records on transfer, is directed to tag H.M.O.P.No.21 of 2018 along with H.M.O.P.No.25 of 2019 and M.C.No.31 of 2018 and dispose of same on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

The Subordinate Judge,
Tiruchendur.

<https://hcservicecourtsuponds.net>



2.The Family Court,
Tirunelveli.

+1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-57486[F] dated
28/03/2019)

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