



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.5 of 2019

and

C.M.P(MD)No.75 of 2019

A.Dhanalakshmi

... Petitioner/
Respondent

Vs.

M.Manikandan

... 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.4514 of 2018 pending before the Family Court No.III, Chennai and transfer the same to the file of the Family Court, Madurai.

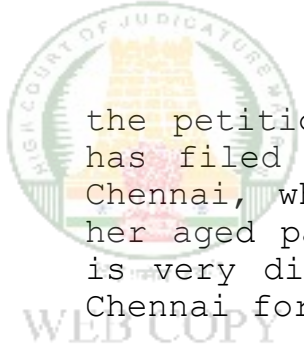
For Petitioner :Mr.B.Sukumar

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.4514 of 2018, from the file of the Family Court No.III, Chennai to the file of the Family Court, Madurai.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 03.02.2016. After marriage, both of them lived happily for some time. Later, the respondent / husband deserted the petitioner / wife and she filed M.C.No.32 of 2016, seeking maintenance. In the meantime, the respondent / husband, filed H.M.O.P.No.3615 of 2016 before the Family Court, Chennai. On the petition filed by the petitioner / wife before this Court in Tr.C.M.P(MD)No.487 of 2016, H.M.O.P.No.3615 of 2016 was transferred to the Family Court, Madurai and renumbered as H.M.O.P.No.67 of 2017 and subsequently, the same was dismissed on 07.08.2018 for the non appearance of the respondent. Hereafter, the respondent / husband has filed H.M.O.P.No.4514 of 2018 seeking divorce with the false allegations. The grievance of



the petitioner is that the respondent being a resident of Chennai, has filed the above divorce petition at the Family Court No.III, Chennai, whereas the petitioner is residing at Madurai, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 500 kms from Madurai to Chennai for attending each and every hearing of the case.

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

4.Despite Court notice and private notice are being served on the respondent and his name is being printed in the cause list, there is no representation on behalf of the respondent either in person or through Counsel.

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 Judge, Family Court No.III, Chennai is directed to transmit the entire records in H.M.O.P.No.4514 of 2018 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of copy of this order.

ii)The learned Judge, Family Court, Madurai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.4514 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(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Judge,
Family Court No.III,
Chennai.



2.The Judge,
Family Court,
Madurai.

+1..C.C. to M/S.B.SUKUMAR, Advocate SR.No. 54375

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ORDER MADE IN
TR.C.M.P (MD) No.5 of 2019
and
C.M.P (MD) No.75 of 2019

SMN
SP/05.04.2019/3P-4C