



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.50 of 2019

and

C.M.P(MD)No.1380 of 2019

Siva Birunda Devi

... Petitioner/Respondent

Vs.

T.Arul Ganesan

... 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.162 of 2018 pending before the Sub Court, Tenkasi, Tirunelveli District and transfer the same to the file of the Sub Court, Uthamapalayam, Theni District.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.G.Kasinatha Durai

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.162 of 2018, from the file of the Subordinate Court, Tenkasi, Tirunelveli District to the file of the Subordinate Court, Uthamapalayam, Theni District.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 08.06.2005. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.162 of 2018 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Ilanji, Tenkasi Taluk, has filed the above divorce petition at the Subordinate Court, Tenkasi, Tirunelveli District, whereas the petitioner is residing at Uthamapalayam, Theni District, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 250 kms from Uthamapalayam to Tenkasi 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, Tenkasi, Tirunelveli District is directed to transmit the entire records in H.M.O.P.No.162 of 2018 to the file of the Subordinate Court, Uthamapalayam, Theni District within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Uthamapalayam, Theni District, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.162 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 (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

smn

To

1. The Subordinate Judge, Tenkasi, Tirunelveli District.

2. The Subordinate Judge, Uthamapalayam, Theni District.

+1CC TO MR.R.J.KARTHICK, Advocate Sr. No.62679

ORDER MADE IN

TR.C.M.P (MD) No.50 of 2019
and C.M.P (MD) No.1380 of 2019
25.04.2019

MA (CO)

TR (07.05.2019) 3P 4C