



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD).No.51 of 2019
and
C.M.P(MD)No.1381 of 2019

Manjugomathi

... Petitioner/Respondent

Vs.

Nagendran

... Respondent/Petitioner

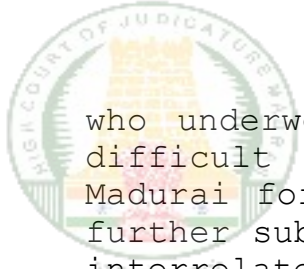
PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.300 of 2018 pending on the file of the I-Additional Subordinate Court, Madurai and transfer the same to the file of the Family Court, Srivilliputhur and club the same with H.M.O.P.No.12 of 2019 on the file of the Family Court, Srivilliputhur.

For petitioner : Mr.B.Jeyakumar
For respondent : Mr.R.Devaraj

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.300 of 2018 from the file of the I-Additional Subordinate Court, Madurai to the file of the Family Court, Srivilliputhur and to try the same along with H.M.O.P.No.12 of 2019.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 04.09.2017. After marriage, both of them lived happily for some time. Later, due to misunderstanding, the respondent herein / husband of the petitioner filed H.M.O.P.No.300 of 2018 on the file of the I-Additional Subordinate Court, Madurai, seeking divorce with the false allegations. Thereafter, the petitioner filed H.M.O.P.No.12 of 2019 for restitution of conjugal rights before the Family Court, Srivilliputhur. The grievance of the petitioner is that the respondent being a resident of Madurai has filed the above divorce petition at the I-Additional Subordinate Court, Madurai, whereas the petitioner is residing at Srivilliputhur, along with her brother and aged mother, and as she is depending upon her brother



who underwent brain surgery recently and aged mother, it is very difficult for her to travel about 60 kms from Srivilliputhur to Madurai for attending each and every hearing of the case. He would further submit that as the issues involved in both the H.M.O.Ps. are interrelated to each other, this Court may direct the Family Court, Srivilliputhur to tag H.M.O.P.No.300 of 2018 along with H.M.O.P.No.12 of 2019, which is pending on its file, conduct joint trial and dispose of the same on merits.

3. The learned counsel for the respondent vehemently opposed to grant the 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.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5. I am satisfied with the reasons stated by the petitioner. 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. Further, as rightly stated by the learned counsel for the petitioner, the issue involved in both the H.M.O.Ps are interrelated to each other and therefore, the same can be directed to try together. The joint trial would not only save the valuable time of the parties but also the Court. 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 I-Additional Subordinate Judge, Madurai is directed to transmit the entire records in H.M.O.P.No.300 of 2018 to the file of the Family Court, Srivilliputhur, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Srivilliputhur, after obtaining the records on transfer, is directed to tag H.M.O.P.No.300 of 2018 along with H.M.O.P.No.12 of 2019 pending on his file, try together and dispose of the same on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of records.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/



To

1. The I-Additional Subordinate Court,
Madurai.

2. The Judge, Family Court,
Srivilliputhur.

+1 CC to M/s.B.JEYAKUMAR, Advocate (SR-53677[F] dated 13/03/2019)
+1 CC to M/s.R.DEVARAJ, Advocate (SR-53714[F] dated 13/03/2019)

GCG

DS : 26/03/2019 : 3P/5C

TR. C.M.P (MD) .No.51 of 2019
13.03.2019