



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.54 of 2019

and

CMP(MD)No.1424 of 2019

Muhsina Banu

... Petitioner/Defendant/Wife

vs.

Kishwar Mohideen

... Respondent/Plaintiff/Husband

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the O.S.No.290 of 2018 on the file of VIIth Family Court, Chennai and transfer the same to the Family Court, Madurai, within a specified time.

For Petitioner : Mr.D.Farjana Ghoushia

For Respondent : No appearance

ORDER

This petition has been filed for a direction to transfer O.S.No.290 of 2018 from the VIIth Family Court, Chennai, to the Family Court, Madurai.

2.Learned counsel for the petitioner would aver among other things that the marriage between the petitioner and respondent was solemnized on 13.12.2015 as per the Islamic rites and in the wedlock, a female child was born on 28.09.2016. Due to misunderstanding, they are living separately. While so, the respondent filed the above suit for divorce. Learned counsel further submitted that the petitioner is residing at Madurai at her parental home and she being unemployed and dependent on her parents for her livelihood, is finding it difficult to travel to Chennai, to attend every hearing of the above suit. Therefore, the petitioner has filed this transfer petition.

3.Despite service of notice and the name is being printed in the cause list, the respondent is not present either by himself or through counsel.

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



5.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. Accordingly, this petition is allowed with the following directions:-

i)The learned Judge, VIIth Family Court, Chennai, is directed to transmit the entire records in O.S.No.290/2018 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)On receipt of the case papers in O.S.No.290/2018, the learned Judge, Family Court, Madurai, is directed to 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

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judge, VIIth Family Court, Chennai.

2.The Judge,Family Court,Madurai.

+1 CC to M/s.G.MARIAPPAN, Advocate in SR-58359

TR.CMP(MD)No.54 of 2019
02.04.2019

bala

PK/15.04.2019 : 2P/4C