



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.03.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
TR. C.M.P(MD) .No.58 of 2019
and
C.M.P(MD)No.1537 of 2019

Saranya

... Petitioner/Respondent

Vs.

Ramkumar

... Respondent/ Petitioner

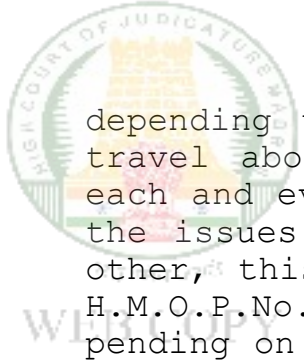
PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.94 of 2018 pending on the file of the Subordinate Court, Thuraiyur and transfer the same to the file of the Family Court, Tirunelveli, to try along with H.M.O.P.No.7 of 2019 on the file of the Family Court, Tirunelveli.

For petitioner :Mr.M.P.Senthil
For respondent :Mr.C.Jeganathan,
for M/s.Veera Associates

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.94 of 2018 from the file of the Subordinate Court, Thuraiyur, to the file of the Family Court, Tirunelveli and to try the same along with H.M.O.P.No.7 of 2019.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 23.03.2017. 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.94 of 2018 on the file of the Subordinate Court, Thuraiyur, seeking divorce with the false allegations. Thereafter, the petitioner filed H.M.O.P.No.7 of 2019 for restitution of conjugal rights before the Family Court, Tirunelveli. The grievance of the petitioner is that the respondent being a resident of Thuraiyur has filed the above divorce petition at the Subordinate Court, Thuraiyur, 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 340 kms from Tirunelveli to Thuraiyur 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, Tirunelveli to tag H.M.O.P.No.94 of 2018 along with H.M.O.P.No.7 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 as expeditiously as possible.

4. Heard the learned counsel for the both 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 Subordinate Judge, Thuraiyur is directed to transmit the entire records in H.M.O.P.No.94 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.94 of 2018 along with H.M.O.P.No.7 of 2019 pending on his file, try together and dispose of the same on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

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To,

1.The Subordinate Judge,
Thuraiyur.

2.The Judge, Family Court,
Tirunelveli.

+1CC to Mr.M.P.SENTHIL , Advocate SR.No.54876.

+1CC to Mr.C.JEGANATHAN , Advocate SR.No. 55120.

TR. C.M.P (MD) .No.58 of 2019

18.03.2019

DS/ /SAR- (28.03.2019) 3P 5C