



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.60 of 2019

and

C.M.P(MD)Nos.1553 and 1554 of 2019

R.Deepa Meena

... Petitioner/Respondent

Vs.

M.Giritharan

... 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.1155 of 2018 pending before the Family Court, Madurai and transfer the same to the file of the Sub Court, Virudhunagar and jointly to try along with H.M.O.P.No.6 of 2019 pending before the Sub Court, Virudhuagar.

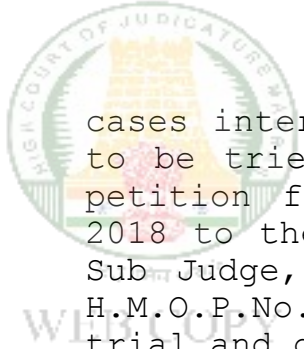
For Petitioner : Mr.R.Rajamohan

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.1155 of 2018 from the file of the Family Court, Madurai to the file of the Subordinate Court, Virudhunagar.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 01.12.2016. After marriage, both of them lived happily for some time and they blessed with a male child and the child is now aged about two years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.1155 of 2018 seeking divorce with the false allegations before the Family Court, Madurai. The petitioner / wife filed H.M.O.P.No.6 of 2019 before the Sub Court, Virudhunagar for restitution of conjugal rights. The grievance of the petitioner is that the respondent being a resident of Madurai has filed the above divorce petition at the Family Court, Madurai, whereas the petitioner is residing at Virudhunagar, along with her aged parents, and as she is depending upon her aged parents, it is very difficult for her to travel about 58 kms along with her child from Virudhunagar to Madurai for attending each and every hearing of the case. It is further stated that the issue involved in both the



cases interrelated to each other and therefore, both the cases have to be tried together and therefore, she requested to transfer the petition filed by the respondent / husband in H.M.O.P.No.1155 of 2018 to the file of the Sub Court, Virudhunagar and to direct the Sub Judge, Virudhunagar to try H.M.O.P.No.1155 of 2018 along with H.M.O.P.No.6 of 2019, which is pending on his file, conduct joint trial and dispose of the same on merits.

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

4. Despite notice 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 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. Further, as rightly stated by the learned counsel for the petitioner, the issue involved in both the cases are interrelated to each other and therefore, the same should be tried 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 Judge, Family Court, Madurai is directed to transmit the entire records in H.M.O.P.No.1155 of 2018 to the file of the Subordinate Court, Virudhunagar within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Virudhunagar after obtaining the records on transfer, is directed to tag H.M.O.P.No.1155 of 2018 along with H.M.O.P.No.6 of 2019 which is pending on his file, conduct joint trial and dispose of the same on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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To,

1.The Judge, Family Court, Madurai.

2.The Subordinate Judge, Virudhunagar.

+1 CC to MR.R.RAJAMOHAN, Advocate (SR-61132[F] dated 15/04/2019)

**ORDER MADE IN
TR.C.M.P(MD) .No.60 of 2019
15.04.2019**

Pjl

AE (27.04.2019) 3P 4C