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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P(MD)No.65 of 2019

and

C.M.P(MD)No.1650 of 2019

Deepalakshmi

.. Petitioner/Respondent

Vs.

Gunaseelan

.. 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.1604 of 2018 pending before the Additional Family Court, Coimbatore and transfer the same to the file of the Principal Sub Court, Tiruchirappalli.

For Petitioner : Mr.R.S.Sivaram

For Respondent : Mr.M.Kaliraj

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.1604 of 2018 from the file of the Additional Family Court, Coimbatore, to the file of the Principal Sub Court, Tiruchirappalli.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 02.11.2017. After marriage, both of them lived happily for some time and out of the wedlock, they have no issues. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.1604 of 2018 before the Additional Family Court, Coimbatore, seeking divorce with false allegations. The grievance of the petitioner is that the respondent being a resident of Coimbatore has filed the above divorce petition at the Additional Family Court, Coimbatore, whereas the petitioner is residing at Musiri along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 194 kms from Musiri to Coimbatore for attending each and every hearing of the case.

<https://hcservices.ecourts.gov.in/hcservices/>

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



4. The learned Counsel for the respondent would submit that already there was an attempt for mediation out of the Court and when it was about to finalise, due to the intervention of the relatives, mediation could not succeed. Hence, he would submit that this matter may be referred to mediation centre attached to this Bench for amicable settlement.

5. The learned counsel for the petitioner would vehemently oppose the statement made by the learned counsel for the respondent. He would state that though there was a mediation before the Chief Judicial Magistrate, Tiruchirappalli in the maintenance case filed by the petitioner/wife, the respondent/husband did not appear at all and therefore no indulgence would be shown to the respondent.

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

7. In my considered opinion, since the respondent has not utilised the opportunity of the mediation before the Court below, it is not appropriate to keep the matter pending before this Court and I am satisfied with the reasons stated in the affidavit filed in support of this petition and the statement made by the learned counsel for 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. 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, Additional Family Court, Coimbatore, is directed to transmit the entire records in H.M.O.P.No.1604 of 2018 to the file of the Principal Sub Court, Tiruchirappalli, within a period of two weeks from the date of receipt of a copy of this order.

ii) the learned Principal Subordinate Judge, Tiruchirappalli, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.1604 of 2018 on merits and in accordance with law, as expeditiously as possible.

iii) during trial, if the respondent asks for mediation before the Court below, opportunity may be granted for mediation.



No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Records)

// True Copy //

Sub Assistant Registrar(CS)

PJL

To,

1.The Judge, Additional Family Court, Coimbatore.

2.The Principal Sub Judge, Tiruchirappalli.

+1CC TO MR.M.SARAVANA KUMAR, Advocate Sr. No. 64584

**ORDER MADE IN
TR.C.M.P(MD) .No.65 of 2019**

GRC(CO)

TR (14.06.2019) 3P 4C