



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.75 of 2019

and

C.M.P(MD)No.1771 of 2019

Januba Begum ... Petitioner/Defendant/Wife
Vs
Mohammed Ismail Asick ... Respondent/Plaintiff/Husband

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case in O.S.No.293 of 2018 pending on the file of the Principal District Munsif Court, Tenkasi, Tirunelveli District and to transfer the same to the file of the Principal District Munsif, Mayiladuthurai, Nagapattinam District.

For petitioner :Mr.R.J.Karthick

For respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of O.S.No.293 of 2018 from the file of the Principal District Munsif, Tenkasi, Tirunelveli District to the file of the Principal District Munsif, Mayiladuthurai, Nagapattinam District.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 14.02.2013. After marriage, both of them lived happily for some time and they blessed with a male child. Now, the child is aged about 4 years. Later, unable to bear the torture of the respondent, the petitioner filed D.V.C.No.16 of 2018. As a counter-blast, the respondent filed O.S.No.293 of 2018 to declare that the petitioner is not the wife of the respondent. The grievance of the petitioner is that the respondent is the resident of Tenkasi and hence, he has filed the above suit on the file of the Principal District Munsif, Tenkasi, whereas the petitioner is residing at Mayiladuthurai, along with her aged mother and 4 years old child. As she is depending upon her aged mother and she has to take care of her child, it is very difficult for her to travel about 350 kms from Mayiladuthurai to Tenkasi, along with the child, for attending each and every hearing of the case. Thus, he prayed to allow this petition.



3. Though the respondent entered appearance through a counsel, there is no representation for the respondent today.

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

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5. I am satisfied with the reasons stated by the petitioner. In the decision of the Hon'ble Supreme Court reported in **2008 (9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, it has been held that convenience of woman is to be taken into consideration first while considering transfer application. In view of the above, this Court is inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Principal District Munsif, Tenkasi, Tirunelveli District, is directed to transmit the entire records in O.S.No.293 of 2018 to the file of the Principal District Munsif, Mayiladuthurai, Nagapattinam District, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Principal District Munsif, Mayiladuthurai, Nagapattinam District, after obtaining records on transfer, is directed to dispose of O.S.No.293 of 2018 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal District Munsif,
Tenkasi,Tirunelveli District.

2.The Principal District Munsif,
Myladuthurai, Nagapattinam District.

+1cc to Mr.R.J.Karthick, Advocate, SR.No. 63818

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