



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.83 of 2019

and

C.M.P(MD)No.1980 of 2019

K.Mayadevi

... Petitioner/Respondent

Vs.

Dinesh

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case in H.M.O.P.No.101 of 2017 on the file of the Subordinate Court, Dindigul and to transfer the same to the file of the learned Subordinate Court, Srivilliputhur.

For petitioner : Mr.M.Thirunavukkarasu

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.101 of 2017 from the file of the Subordinate Court, Dindigul to the file of the Subordinate Court, Srivilliputhur.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 16.09.2015. After marriage, both of them lived happily for some time and they blessed with a female child and now the child is aged about two years. Later, the respondent herein / husband of the petitioner filed a petition in H.M.O.P.No.101 of 2017 on the file of the Subordinate Court, Dindigul, seeking divorce with the false allegations. The petitioner has filed H.M.O.P.No.101 of 2017 before the Family Court, Srivilliputhur for restitution of conjugal rights and the same was allowed in ex parte on 31.01.2018. The grievance of the petitioner is that the respondent being a resident of Dindigul, has filed the above divorce petition on the file of the Subordinate Court, Dindigul, whereas the petitioner is residing at Srivilliputhur along with her child and as she is depending upon her relatives, it is very difficult for her to travel about 150 kms from Srivilliputhur to Dindigul, along with two years old child, for attending each and every hearing of the case. Thus, he prayed to allow this petition.

<https://hcservices.ecourts.gov.in/hcservices/> notice sent to the respondent through Court served on 13.03.2019, none appeared for the respondent.



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 Subordinate Judge, Dindigul, is directed to transmit the entire records in H.M.O.P.No.101 of 2017 to the file of the Subordinate Court, Srivilliputhur, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Srivilliputhur, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.101 of 2017 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 from the Subordinate Court, Dindigul.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS)

gcg

To

1.The Subordinate Judge,
Dindigul.

2.The Subordinate Judge,
Srivilliputhur.

+1CC TO MR.M.THIRUNAVUKKARASU, Advocate Sr. No. 58800

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