



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.88 of 2019

and

C.M.P(MD)No.2053 of 2019

Indurani

... Petitioner/Respondent

Vs.

Ramanathan

... 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.48 of 2018 on the file of the Subordinate Court, Mudukulathur and transfer the same to the file of the Subordinate Court, Sivagangai for trial.

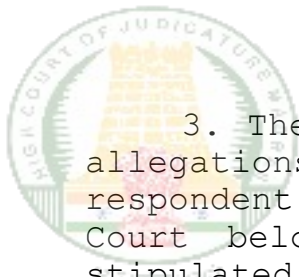
For petitioner : Mr.D.Venkatesh

For respondent : Mr.N.Chandran

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.48 of 2018 from the file of the Subordinate Court, Mudukulathur to the file of the Subordinate Court, Sivagangai.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 06.11.2016. After marriage, both of them lived happily for some time and they blessed with a female child and the child is now aged about 1-1/2 years. Later, due to misunderstanding, the respondent herein / husband of the petitioner filed a petition in H.M.O.P.No.48 of 2018 on the file of the Subordinate Court, Mudukulathur, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent is an Advocate. Due to the request of the respondent, the Advocates, who entered appearance for her in H.M.O.P.No.48 of 2018, withdrew their appearance and now, no Advocate comes forward to appear for her and therefore, she could not appear to conduct her case properly. Thus, he prayed to allow this petition.



3. The learned counsel appearing for the respondent denied the allegations made against the respondent. He would submit that the respondent has no objection in allowing this petition, however, the Court below may be directed to dispose of the case within a stipulated time.

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

5. Considering the reasons stated by the learned counsel for the petitioner and also the decision of 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, this Court is inclined to allow this Transfer Civil Miscellaneous Petition, without prejudice to the contention of the respondent. Accordingly, this petition is allowed with the following directions:

i) The learned Subordinate Judge, Mudukulathur, Ramanathapuram District is directed to transmit the entire records in H.M.O.P.No.48 of 2018 to the file of the Subordinate Court, Sivagangai, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Sivagangai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.48 of 2018 on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of the records.

No costs. Consequently, connected miscellaneous petition is closed.

sd/
Assistant Registrar(Crl. Side)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Mudukulathur, Ramanthapuram District.

2. The Subordinate Judge, Sivaganai.

+2 CC to Mr.N.CHANDRAN, Advocate (SR-53883[F] dated 14/03/2019)

+1 CC to Mr.D.VENKATESH, Advocate (SR-54573[F] dated 18/03/2019)

gcg

SP/05.04.2019/2P/6C