



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.164 of 2018
and
CMP(MD)No.3899 of 2018

K.Muthu Manohari

... Petitioner

vs.

P.Maharaja @ Durai

... Respondent

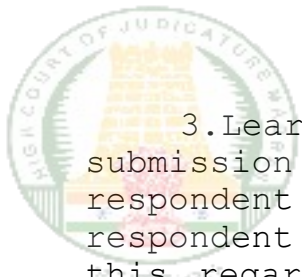
Petition filed under Section 24 of the Civil Procedure Code, to withdraw HMOP.No.7 of 2018 on the file of the learned Subordinate Judge at Tirunelveli and transfer the same to the file of the Family Court at Madurai for joint trial with HMOP.No.175 of 2018 on the file of the Family Court at Madurai.

For Petitioner : Mr.S.Devasena
For Respondent : Mr.P.Samuel Gunasingh

ORDER

This petition has been filed for a direction to transfer H.M.O.P.No.7 of 2018 from the Sub Court, Tirunelveli, to the Family Court, Madurai, to be tried along with HMOP.No.175 of 2018.

2.Learned counsel for the petitioner would aver among other things that the marriage between the petitioner and respondent was solemnized on 19.12.2013 and in the wedlock, they were blessed with a male child. Due to misunderstanding, they are living separately. While so, the respondent filed HMOP.No.7 of 2018 before the Sub Court, Tirunelveli, for divorce and the petitioner also filed HMOP.No.175 of 2018 before the Family Court, Madurai, for restitution of conjugal rights. Learned counsel further submitted that the petitioner is residing at Madurai, at her parental home and she is finding it difficult to travel to Tirunelveli along with the child to attend every hearing of H.M.O.P.No.7 of 2018. Therefore, the petitioner has filed this transfer petition. Learned counsel would also submit that the petitioner had been threatened by the respondent at Sub Court, Tirunelveli, and therefore, it is not conducive for the petitioner to attend the hearing of HMOP.No.7 of 2018 at Tirunelveli.



3. Learned counsel for the respondent would object to the submission of the petitioner that she was threatened by the respondent and submitted that there was no such threatening by the respondent and there is no complaint filed against the respondent in this regard. However, learned counsel for the respondent has no serious objection for transfer but would pray for early disposal of the HMOPs.

4. 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 applications. Hence, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Judge, Sub Court, Tirunelveli, is directed to transmit the entire records in H.M.O.P.No.7 of 2018 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of copy of this order.

ii) On receipt of the case papers in H.M.O.P.No.7 of 2018, the learned Judge, Family Court, Madurai, is directed to conduct a joint trial of HMOP.Nos.7 and 175 of 2018 and dispose of the same 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 in HMOP.No.7 of 2018.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1) The Judge, Family Court,
Madurai.

2) The Judge,
Subordinate Court,
Tirunelveli.

+1 CC to M/s.S.DEVASENA, Advocate (SR-54598[F] dated 18/03/2019)

BALA

DS : 27/03/2019 : 2P/4C

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

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14.03.2019