



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

WEB COPY

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P(MD) .No.112 of 2017

and

C.M.P(MD)No.2588 of 2017

Sathya @ Savithiri

... Petitioner/Respondent

Vs.

Premkumar

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw and transfer H.M.O.P.No.39 of 2017 from the file of the Subordinate Court, Poonamallee, Thiruvallur District to the Family Court, Trichy.

For petitioner :Mr.T.Senthil Kumar
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.39 of 2017 from the file of the Subordinate Court, Poonamallee, Thiruvallur District to the file of the Family Court, Trichy.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 25.05.2014. 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 has filed a petition in H.M.O.P.No.39 of 2017 on the file of the Subordinate Court, Poonamallee, Thiruvallur District, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Ambattur, Chennai - 53, has filed the above divorce petition at the Subordinate Court, Poonamallee, whereas the petitioner is residing in her relative's house at Trichy, along with her child and as she is depending upon her relatives even for her travel to Chennai, it is very difficult for her to travel about 400 kms along with her child from Trichy to Chennai for attending each and every hearing of the case. Thus, he prayed to allow this petition.



3. Though notice sent to the respondent through Court and privately, the same were returned with an endorsement "Not Known". The notice sent to the learned counsel appearing for the respondent before the Court below served as early as on 16.02.2018. But, 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 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 Subordinate Judge, Poonamallee, Thiruvallur District is directed to transmit the entire records in H.M.O.P.No.39 of 2017 to the file of the Family Court, Trichy, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Family Court Judge, Trichy, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.39 of 2017 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar

gcg

To

1.The Subordinate Judge,
Poonamallee, Thiruvallur District.

2.The Judge, Family Court, Trichy.

1 CC to M/s.T.SENTHIL KUMAR, Advocate (SR-54043[F])

TR. C.M.P(MD).No.112 of 2017

14.03.2019