



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

TR.C.M.P (MD)No.458 of 2017

and

C.M.P (MD)No.8975 of 2017

Karthika

... Petitioner/Respondent

Vs.

Kasirajan

... 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.141 of 2017 pending before the Sub Court, Tuticorin and transfer the same to any other competent Court at Tirunelveli.

For Petitioner : Mr.S.Srinivasa Raghavan

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.141 of 2017, from the file of the Subordinate Court, Tuticorin, to any other competent Court at Tirunelveli.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 03.03.2014. After marriage, both of them lived happily for some time and they blessed with a female child and the child is now aged about 3 ½ years. Later, due to misunderstanding, the respondent herein / husband of the petitioner has filed H.M.O.P.No.141 of 2017 seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Tuticorin has filed the above divorce petition at the Subordinate Court, Tuticorin, whereas the petitioner is residing at Tirunelveli along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 46 kms along with her child from Tirunelveli to Tuticorin for attending each and every hearing of the case.

3. The learned counsel for the petitioner reiterated the
<https://hcmadras.gov.in/home> in the petition.



4. Despite notice being served on the respondent and the counsel, who appeared before the Court below on behalf of the respondent and his name is being printed in the cause list, there is no representation on behalf of the respondent either in person or through Counsel.

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

6. 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, Tuticorin is directed to transmit the entire records in H.M.O.P.No.141 of 2017 to the file of the Principal Sub Court, Tirunelveli within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Principal Sub Judge, Tirunelveli, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.141 of 2017 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To,

1. The Subordinate Judge, Tuticorin.

2. The Principal Subordinate Judge, Tirunelveli.

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate in SR-61387

TR.C.M.P (MD) .No.458 of 2017
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