



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.305 of 2018

and

C.M.P (MD) No.7569 of 2018

Jayeshree

... Petitioner/Respondent

Vs.

P.Senthilvel

... 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.60 of 2015 on the file of the Subordinate Court, Virudhunagar and to transfer the same to the file of the learned Subordinate Court, Ramanathapuram.

For petitioner :Mr.R.Senthilkumar

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.60 of 2015 from the file of the Subordinate Court, Virudhunagar to the file of the Subordinate Court, Ramanathapuram.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 23.08.2007. After marriage, both of them lived happily for some time. In the year 2008, the respondent left the petitioner in her parental home and thereafter, the respondent did not take back her. Hence, the petitioner filed H.M.O.P.No.30 of 2016 on the file of the Subordinate Court, Ramanathapuram, for restitution of conjugal rights and the same was disposed of on 04.01.2018. Later, the respondent herein / husband of the petitioner filed a petition in H.M.O.P.No.60 of 2018 on the file of the Subordinate Court, Virudhunagar, seeking divorce with the false allegations. The grievance of the petitioner is that the respondent being a resident of Virudhunagar, has filed the above divorce petition on



the file of the Subordinate Court, Virudhunagar, whereas the petitioner is residing at Ramanathapuram along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 120 kms from Ramanathapuram to Virudhunagar 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 "Left" and "Unclaimed" respectively. The notice sent to the learned counsel appearing for the respondent before the Court below served as early as on 21.02.2019. 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, Virudhunagar, is directed to transmit the entire records in H.M.O.P.No.60 of 2015 to the file of the Subordinate Court, Ramanathapuram, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Ramanathapuram, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.60 of 2015 on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

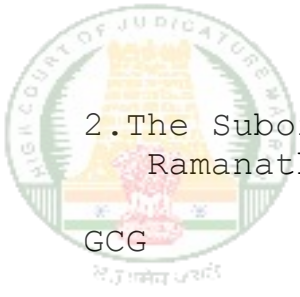
Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

To

<https://hcservicecourtsupindia.net>
The Subordinate Judge,
Virudhunagar.



2.The Subordinate Judge,
Ramanathapuram.

WEB COPY

TR. C.M.P (MD) .No.305 of 2018
14.03.2019

KM/(08.04.2019) 3P 3C