



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2019

CORAM

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

TR.C.M.P (MD) No.472 of 2018

and

C.M.P (MD) No.10933 of 2018

S.Jeba

... Petitioner/
Respondent

Vs.

M.Satheesh

... 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.908 of 2018 pending before the Family Court, Madurai and transfer the same to the file of the Family Court, Coimbatore, to be tried along with M.C.No.83 of 2015.

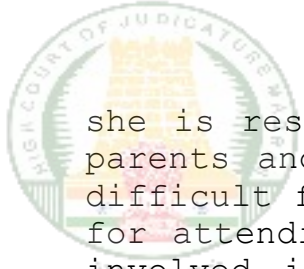
For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.G.Vidhyamaheswaran

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.908 of 2018, from the file of the Family Court, Madurai to the file of the Family Court, Coimbatore, to try along with M.C.No.83 of 2015.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 28.10.2012. After marriage, both of them lived happily for some time and they blessed with a male child and the child is now aged about 5 years. When she was pregnant, the respondent has driven out her from the matrimonial home and she was residing along with her parents. Since the respondent is not at all taking care of the petitioner as well as the child, she filed a maintenance petition on behalf of her child in M.C.No.83 of 2015 before the Family Court, Coimbatore. As a <https://hcservices.courts.gov.in/hcservices/> the respondent herein / husband of the petitioner filed H.M.O.P.No.908 of 2018 before the Family Court, Madurai for dissolution of marriage. The grievance of the petitioner is that



she is residing at Edaayarpalayam, Coimbatore, along with her aged parents and as she is depending upon her aged parents, it is very difficult for her to travel about 175 kms from Coimbatore to Madurai for attending each and every hearing of the case. Since the issue involved in both the cases interrelated to each other, both the cases have to be tried together and therefore, she requested to transfer the petition filed by the respondent / husband in H.M.O.P.No.908 of 2018 to the file of the Family Court, Coimbatore and to direct the Family Court Judge, Coimbatore to try H.M.O.P.No.908 of 2018 along with M.C.No.83 of 2015, which is pending on his file.

3.The learned counsel for the petitioner reiterated the averments made in the petition.

4.The learned counsel appearing for the respondent would vehemently oppose to the grant of relief. However, he submitted that in the event of transfer, this Court may direct the Court below to dispose of both the cases within a stipulated time.

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

6.The petitioner filed M.C.No.83 of 2015 seeking maintenance before the Family Court, Coimbatore. The respondent filed H.M.O.P.No.908 of 2018 for dissolution of marriage, before the Family Court, Madurai. As rightly stated by the learned counsel for the petitioner, the issue involved in both the cases are interrelated to each other and therefore, the same should be tried together. The joint trial would not only save the valuable time of the parties but also the Court. It is seen that the petitioner / wife is residing at Edaayarpalayam, Coimbatore and the respondent / husband residing at Pethaniyapuram, Madurai. 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 petition and to transfer H.M.O.P.No.908 of 2018 to the file of the Family Court, Coimbatore for joint trial with M.C.No.83 of 2015.

7.In view of the above, this Transfer Civil Miscellaneous Petition is allowed with the following direction:

i)The learned Judge, Family Court, Madurai is directed to transmit the entire records in H.M.O.P.No.908 of 2018 to the file of the Family Court, Coimbatore, within a period of two weeks from the date of receipt of copy of this order.



ii) The learned Judge, Family Court, Coimbatore, after obtaining the records on transfer, is directed to tag H.M.O.P.No.908 of 2018 along with M.C.No.83 of 2015, which is pending on his file, conduct joint trial and dispose of the same on merits and in accordance with law, preferably within a period of six months from the date of receipt of records relating to H.M.O.P.No.908 of 2018.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

/ True Copy /

Sub Assistant Registrar (CS)

smn

To

1. The Judge,
Family Court,
Madurai.

2. The Judge,
Family Court,
Coimbatore.

+1 CC to M/s.G.VIDHYA MAHESWARAN, Advocate
(SR-64330[F] dated 30/04/2019)

+1 CC to M/s.VEERA ASSOCIATES, Advocate
(SR-64384[F] dated 30/04/2019)

ORDER MADE IN
TR.C.M.P (MD) No.472 of 2018
and
C.M.P (MD) No.10933 of 2018
29.04.2019

ES/06.05.2019/3P/5C