



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR. C.M.P (MD) .No.511 of 2018

and

C.M.P (MD) No.11961 of 2018

J.Annal Preethi Shanthini

... Petitioner/Respondent

Vs.

B.Mohan

... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw the case in I.D.O.P.No.9 of 2018 on the file of the District Court, Theni and to transfer the same to the file of the District Court, Tiruchirapalli.

For petitioner : Mr.P.Arun Jayatram

For respondent : Mr.R.R.Thamothar Raj

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of I.D.O.P.No.9 of 2018 from the file of the District Court, Theni to the file of the District Court, Tiruchirapalli.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 18.11.2009. After marriage, both of them lived happily for some time and they blessed with a female child and now the child is aged about 7 years. Later, the respondent herein / husband of the petitioner filed a petition in I.D.O.P.No.3 of 2015 on the file of the District Court, Theni, seeking divorce with the false allegations. Subsequently, at the instance of the petitioner, it was transferred to the file of the District Court, Tiruchirapalli and renumbered as I.D.O.P.No.21 of 2015. Due to non-appearance of the respondent, it was dismissed for default on 08.01.2016. Now, the respondent again filed I.D.O.P.No.9 of 2018 for divorce on the file of the District Court, Theni, by suppressing the earlier petition. The grievance of the petitioner is that though the respondent is not the permanent resident of Bodinayakanur, he has filed the above divorce petition on the file of the District Court, Theni, whereas the petitioner is residing at Tiruchirapalli, along with her child and as she is depending upon her aged parents, it is very difficult for her to travel about 200 kms from Tiruchirapalli to Theni, along with seven years old child, for attending each and every hearing of the case. Thus, he prayed to allow this petition.



3. The learned counsel for the respondent vehemently opposed to grant the relief. However, he would submit that in the event of allowing this petition, this Court may direct the Court below to dispose of the case within a stipulated time.

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

5. Considering the submission of the learned counsel appearing for both sides and also considering the decision of the Hon'ble Supreme Court reported in **2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, wherein the Hon'ble Supreme Court has held that convenience of woman is to be taken into consideration first while considering transfer application, this Court is inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned District Judge, Theni, is directed to transmit the entire records in I.D.O.P.No.9 of 2018 to the file of the District Court, Tiruchirapalli, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned District Judge, Tiruchirapalli, after obtaining the records on transfer, is directed to dispose of I.D.O.P.No.9 of 2018 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 from the District Court, Theni.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

gcg

To

1.The Principal District Judge,
Theni.

2.The Principal District Judge,
Tiruchirapalli.

+1 CC to M/s.T.MALARMOZHI, Advocate (SR-58803[F] dated 04/04/2019)

+1 CC to M/s.P.ARUN JAYATRAM, Advocate (SR-59367[F] dated 05/04/2019)