



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)No.500 of 2018
and
CMP(MD)No.11746 of 2018

Antony Theeba

... Petitioner

vs.

W.Vinci Moraes

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the I.D.O.P.No.193 of 2016 pending on the file of the Hon'ble Principal District Judge, Thoothukudi, to any other competent court at Tirunelveli.

For Petitioner : Mr.V.Thirumal
For Respondent : Mr.A.Thiruvadi Kumar

ORDER

This petition has been filed for a direction to transfer IDOP.No.193 of 2016 from the Principal District Court, Thoothukudi, to any other competent court at Tirunelveli.

2.Learned counsel for the petitioner would aver among other things that the marriage between the petitioner and respondent was solemnized on 25.05.1995 as per the Catholic religion rites and in the wedlock, a female child was born on 22.09.1997. Due to misunderstanding, they are living separately. While so, the respondent filed the above IDOP for divorce. The petitioner also filed DVC.No.13 of 2018 before the Judicial Magistrate Court, Tiruchendur. Learned counsel further submitted that the parents of the petitioner died and therefore, the petitioner is residing in her elder brother's home at Earwadi, Tirunelveli District, for her livelihood. Hence, she is finding it difficult to travel to Thoothukudi, to attend every hearing of IDOP. Therefore, the petitioner has filed this transfer petition.

3.Learned counsel for the respondent would object for transfer and would state that in the event of this Court inclined to transfer, prayed for early disposal of IDOP.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Heard the learned counsel for the petitioner as well as the



respondent and perused the materials available on record.

5. 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 while considering transfer application. In view of the above, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, being satisfied with the reasons stated in the affidavit filed in support of this petition, this petition is allowed with the following directions:-

i) The learned Judge, Principal District Court, Thoothukudi, is directed to transmit the entire records in IDOP.No.193 of 2016 to the file of the Family Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

ii) On receipt of the case papers in IDOP.No.193 of 2016, the learned Judge, Family Court, Tirunelveli, is directed to dispose of the same 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.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

Sub Assistant Registrar (CS)

bala
To

1) The Judge,
Principal District Court,
Thoothukudi.

2) The Judge,
Family Court,
Tirunelveli.

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-59627[F] dated 08/04/2019)

+1 CC to M/s.K.SAMI DURAI, Advocate (SR-59687[F] dated 08/04/2019)

TR.CMP (MD) No.500 of 2018

08.04.2019