



Tr.C.M.P.(MD) No.237 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

Tr.C.M.P.(MD) No.237 of 2023

and

C.M.P(MD) No.5225 of 2023

M.Sudha

... Petitioner

Vs.

Pradeep

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw the case in H.M.O.P.No.495 of 2022 from the file of the Family Court, Tiruppur and transfer the same to the file of the Sub Court, Sivakasi, for disposal of the same on merits in accordance with law.

For Petitioner : Mr.M.Kannan

For Respondent : Mr.T.Veldurai

ORDER

This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife to withdraw H.M.O.P.No.495 of 2022 from the file of the Family Court,



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Tiruppur and transfer the same to the file of the Sub Court, Sivakasi, for disposal.

2. The petitioner/wife, in the affidavit filed in support of the present Transfer Civil Miscellaneous Petition, has stated that the marriage between the respondent/husband and the petitioner/wife was solemnized on 03.09.2021 and the petitioner was subjected to mental cruelty and forcibly driven out from the matrimonial home by the respondent/husband.

3. It is stated that the respondent is presently working at Bangalore and refused to take the petitioner/wife to lead the matrimonial life with him and deserted her. Therefore, the petitioner/wife was constrained to file H.M.O.P.No.172 of 2022 before the Sub Court, Sivakasi against the respondent/husband for restitution of conjugal rights.

4. On the other hand, the respondent/husband has filed H.M.O.P.No.495 of 2022 before the Family Court, Tiruppur for dissolution of marriage solemnized between the respondent/husband and the petitioner/wife on 03.09.2021.



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5. The contention of the petitioner/wife is that she is now residing with her parents at Sivakasi which is about 245 Kilometers from the Trippur and she is depending upon her parents for her livelihood and therefore, prayed for transfer of H.M.O.P.No.495 of 2022 filed by the respondent/husband from the file of the Family Court, Tiruppur to Sub Court, Sivakasi and to try along with H.M.O.P.No.172 of 2022 filed by the petitioner/wife for restitution of conjugal rights.

6. On the other hand, the learned counsel for the respondent/husband would submit that for the convenience of the respondent/husband, both H.M.O.Ps. may be transferred to anyone of the Courts at Dindigul.

7. Considering the overall facts and circumstances of the case, this Court is of the view that the representation made by the learned counsel for the respondent/husband cannot be accepted for the reason that the respondent/husband is presently working at Bangalore and therefore, the distances between Bangalore and Dindigul and between Bangalore and Sivakasi have no difference for the husband to attend the court.



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8. Therefore, H.M.O.P.No.495 of 2022 is directed to be withdrawn from the file of the Family Court, Tiruppur and transferred the same to the file of the Sub Court, Sivakasi to be tried along with H.M.O.P.No.172 of 2022 filed by the petitioner/wife for restitution of conjugal rights. Since it is submitted that the matter has already been referred to mediation by the learned Subordinate Judge, Sivakasi, the learned Subordinate Judge, Sivakasi is directed to dispose the matter, expeditiously, on receipt of the report of the learned Mediator.

9. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

11.07.2023

NCC :Yes/No
Internet: Yes/No
Index: Yes/ No
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To
1.The Judge, Family Court,
Tiruppur.

2.The Sub Judge, Sivakasi.



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K.GOVINDARAJAN THILAKAVADI, J.

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