



TR.C.M.P.(MD) No.366 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

CORAM

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

TR.C.M.P.(MD) No.366 of 2023

and

C.M.P.(MD) No.7801 of 2023

M.Deepalakshmi

... Petitioner

Vs.

M.Mari Pradeep

... Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 r/w. Section 151 of the Code of Civil Procedure, 1908, to withdraw the case in H.M.O.P.No.222 of 2023 on the file of the Family Court, Thoothukudi and transfer the same to Principal Subordinate Court, Srivilliputhur, Virudhunagar District to be tried along with H.M.O.P.No.9 of 2022.

For Petitioner : Mr.D.Rajaboopathy

For Respondent : Mr.K.Jeyamohan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the wife for transfer of H.M.O.P.No.222 of 2023 from the file of the Family Court, Thoothukudi to the file of the Principal Subordinate Court,



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Srivilliputhur, Virudhunagar District to be tried along with H.M.O.P.No.9 of 2022 filed by her.

2. According to the petitioner/wife, the respondent/husband filed H.M.O.P.No.222 of 2023 before the Family Court, Thoothukudi for restitution of conjugal rights and at the same time, she filed H.M.O.P.No. 9 of 2022 before the Principal Subordinate Court, Virudhunagar District for dissolution of marriage solemnized between the petitioner and the respondent on 29.08.2016.

3. It is submitted that due to the mental and physical torture made by the respondent/husband, the petitioner/wife was forced to leave from the matrimonial home and thereafter, the petitioner/wife filed the above H.M.O.P. for divorce. It is further submitted that the respondent/husband filed the H.M.O.P. only for making the petitioner/wife to run from pillar to post.

4. The learned counsel for the petitioner/wife would submit that the respondent/husband did not pay any maintenance for the petitioner and minor child and the petitioner has no source of income and she and her



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child are depending upon her parents and therefore, she is not in a position to travel from her native place at Rajapalayam to Thoothukudi which is about 145 kms. away, for attending the Court. It is further submitted that the petitioner has a life threat at Thoothukudi on the part of the respondent/husband as he is an influenced person in the locality.

5. Therefore, the petitioner/wife was constrained to approach this Court for transfer of H.M.O.P.No.222 of 2023 from the file of the Family Court, Thoothukudi to the file of the Principal Subordinate Court, Srivilliputhur, Virudhunagar District to be tried along with H.M.O.P.No.9 of 2022 filed by her for divorce.

6. The Hon'ble Supreme Court in the case of **Aarti Rani @ Pinki Devi and others Vs Dharmender Kumar Gupta** reported in **2008 (9) SCC 353** held that convenience of woman is to be taken into consideration.

7. Therefore, considering the facts and circumstances of the case, H.M.O.P.No.222 of 2023 filed by the respondent/husband is directed to be transferred from the file of the Family Court, Thoothukudi to the file of



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the Principal Subordinate Court, Srivilliputhur, Virudhunagar District to be tried along with H.M.O.P.No.9 of 2022 filed by the petitioner/wife for divorce.

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

14.09.2023

NCC : Yes / No
Internet: Yes/No
Index: Yes/ No
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To

- 1.The Family Judge, Thoothukudi
- 2.The Principal Subordinate Judge,
Srivilliputhur, Virudhunagar District.



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K.GOVINDARAJAN THILAKAVADI, J.

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