



TR.C.M.P.(MD) No.459 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2023

CORAM

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

TR.C.M.P.(MD) No.459 of 2023

and

C.M.P.(MD) No.9880 of 2023

K.Priyadharshini

... Petitioner

Vs.

S.Santhoshkumar

... Respondent

Prayer:- This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw H.M.O.P.No.28 of 2023 on the file of the Sub Court, Uthangarai, Krishnagiri District and transfer the same to the file of the Family Court, Madurai.

For Petitioner : M/s..V.Muthukamatchi

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the wife for transfer of H.M.O.P.No.28 of 2023 from the file of the Sub Court, Uthangarai, Krishnagiri District to the file of the Family Court, Madurai.



TR.C.M.P.(MD) No.459 of 2023

2. The marriage was solemnized between the petitioner and the respondent on 14.04.2021. Due to some matrimonial discord, the petitioner and the respondent are living separately. The petitioner/wife is residing along with her parents at Othakadai, Madurai. At the same time, the respondent/husband is residing along with his parents at Kommanpattu, Krishnagiri District.

3. According to the petitioner/wife, the respondent/husband used to consume alcohol and harassed her mentally and physically on every day. Finally, the respondent/husband left the house where the petitioner and the respondent were residing in Madurai and went to his native village. Since the efforts taken by the petitioner's parent for the re-union of the petitioner and the respondent have ended in vain, the petitioner/wife filed H.M.O.P.No.176 of 2023 before the Family Court, Madura for dissolution of marriage solemnized between the petitioner and the respondent on 14.04.2021.

4. At the same time, the respondent/husband filed H.M.O.P.No.28 of 2023 before the Sub Court, Uthangarai, Krishnagiri District for restitution of conjugal rights.



TR.C.M.P.(MD) No.459 of 2023

5. It is submitted that the petitioner/wife is residing at Othakadai, Madurai District and is depending upon her parents for her livelihood. It is submitted that the petitioner/wife being a lady accompanying her age old parents cannot travel up and down about 640 kms. for attending the Court proceedings at Uthangarai.

6. It is further submitted that the petitioner/wife has no source of income and is leading her life with the aid of her parents and the respondent/husband has not paid any maintenance to her. Therefore, it is difficult for the petitioner/wife to travel from Madurai to Uthangari for every hearing. It is further submitted that taking advantage of the petitioner's inability and incapacity to contest the proceedings on merits at Uthangarai, the respondent/husband is making hectic attempts to obtain a decree for re-union of the marriage in a hurried manner which will affect the rights of the petitioner/wife in H.M.O.P. filed by her for divorce.

7. Therefore, the petitioner/wife was constrained to approach this Court for transfer of H.M.O.P.No.28 of 2023 from the file of the Sub Court, Uthangarai, Krishnagiri District to the file of the Family Court, Madurai.



TR.C.M.P.(MD) No.459 of 2023

WEB COPY 8. 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.

9. Therefore, considering the facts and circumstances of the case, H.M.O.P.No.28 of 2023 is directed to be transferred from the file of the Sub Court, Uthangarai, Krishnagiri District to the file of the Family Court, Madurai to be tried along with H.M.O.P.No.176 of 2023 filed by the petitioner/wife for divorce.

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

15.09.2023

NCC : Yes / No
Internet: Yes/No
Index: Yes/ No
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TR.C.M.P.(MD) No.459 of 2023

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To

- 1.The Sub Judge, Uthangarai,
Krishnagiri District.
- 2.The Judge, Family Court,
Madurai.



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TR.C.M.P.(MD) No.459 of 2023

K.GOVINDARAJAN THILAKAVADI, J.

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