



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP(MD)Nos. 32 to 34 of 2017
and C.M.P. (MD) Nos.973 to 975 of 2017
and C.M.P. (MD) Nos. 2949 to 2951 of 2017

In TR.CMP(MD)No. 32 of 2017:

Brindha ... Petitioner / Respondent

Vs.

Jaikumar ... Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.3351 of 2013 has to be transferred from the file of the Family Court No.III, Chennai to the file of Family Court, Trichy, Trichy District and Consequently direct the transferee Court to deal with the said case in accordance with law.

For Petitioner : Mr.M.Pitchai Muthu

For Respondent : Mr.V.Kathirvel, Senior Counsel
For Mr. K. Mu. Muthu

In TR.CMP(MD)No. 33 of 2017:

Brindha ... Petitioner / Petitioner

Vs.

Jaikumar ... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 24 of Civil Procedure Code, to withdraw the case in O.P.No.3403 of 2014 has to be transferred from the file of the Family Court No.III, Chennai to the file of Family Court, Trichy, Trichy District and Consequently direct the transferee Court to deal with the said case in accordance with law.

For Petitioner
For Respondent

:Mr.M.Pitchai Muthu
:Mr.V.Kathirvel, Senior Counsel
For Mr. K. Muthu



In TR.CMP(MD)No. 34 of 2017:

Brindha

... Petitioner / Petitioner

Vs.

Jaikumar

... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.4847 of 2015 has to be transferred from the file of the Family Court No.III, Chennai to the file of Family Court, Trichy, Trichy District and Consequently direct the transferee Court to deal with the said case in accordance with law.

For Petitioner : Mr.M.Pitchai Muthu

For Respondent : Mr.V.Kathirvel, Senior Counsel
For Mr. K. Mu. Muthu

C O M M O N J U D G M E N T

When the matters are taken up for hearing today, the learned counsel appearing for the respondent would submit that in earlier transfer applications in Tr.C.M .P.(MD) Nos. 88, 268 and 269 of 2014, this Court has passed the following order:

8.As per the Guardian and Wards Act, 1890 GWOP has to be filed in the place where the children are residing and it has to be tried by the learned District Judge. Admittedly, the children are residing at Chennai along with their father and grand parents. At this juncture, the learned counsel appearing for the Husband took me through page No.58 of the typed set of papers filed by the wife which containing a communication stating that the wife was selected for Ph.D. Admission in Dr.M.G.R. Educational and Research Institute University, Chennai and that she has paid the fees and informed to join the college on or before 20.04.2014 because of her health problem. However, she has not joined the College.

9.Thus, taking into consideration of the fact that the children are residing at Chennai along with their father and are taken care of by their grand parents, it would be just and reasonable for being the parties to appear before the Family Court at Chennai for disposal of all the proceedings in accordance with law. Since, the wife is residing at Tiruchirapalli and she is unemployed, the husband is directed to pay a sum of Rs.2,500/- to the petitioner for such and every



hearing, if she attends the Court at Chennai.

10. In fine, HMOP.No.791 of 2013 pending on the file of the Principal Subordinate Judge, Tiruchirapalli and GWOP.No.14 of 2014 pending on the file of the learned District Judge, Tiruchirapalli is ordered to be withdrawn and transferred to the file of the Family Court No.3, Chennai to be tried along with HMOP.No.3351 of 2013, pending on its file. The learned Principal Subordinate Judge, Tiruchirapalli is directed to transmit the papers pertaining to HMOP.No.791 of 2013 and the learned District Judge, Tiruchirapalli is directed to transmit the papers pertaining to GWOP.No.14 of 2014 to the file of the Family Court No.3, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

2. Today, it is represented by the learned counsel for the petitioner that the respondent has not paid travelling expenses as ordered by this court earlier and therefore, she has filed the present Transfer Civil Miscellaneous Petitions.

3. On earlier occasion, the learned Senior Counsel appearing for the respondent would submit before this Court that even if there is any arrear, the respondent is ready and willing to pay the amount. Therefore, this Court directed both the counsel to file a calculation memo mentioning what is the actual amount due to the respondent.

4. The learned Senior Counsel appearing for the respondent would file a calculation memo mentioning the travelling expenses, which was paid to the petitioner and he would submit that only on two occasions the amount was not paid and he is also ready and willing to pay the same.

5. The learned counsel for the petitioner submit that he is not able to produce the correct particulars and he is not in a position to file a calculation memo mentioning the arrears amount towards travelling expenses and therefore, he would request this Court that the travelling amount may be adjudicated before the lower court. Recording the same, the Transfer Civil Miscellaneous Petitions are dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True copy/



To,

1. The Judge,
Family Court No. III,
Chennai.

WEB COPY

+1 cc to Mr.K.Mu.Muthu , Advocate in SR.No. 74040

CM

AE/JC/SAR2/06.09.2017/4P/3C

**TR.CMP(MD) Nos. 32 to 34 of 2017
C.M.P. (MD) Nos. 973 to 975 of 2017
and C.M.P. (MD) Nos. 2949 to 2951 of 2017
21.08.2017**