

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

TRANSFER C.M.P.NO.998 OF 2019

B.Suganya

...Petitioner

vs.

A.Prasanna Kumar @ Santhosh Kumar

...Respondent

Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.23 of 2019, pending on the file of the I Additional Subordinate Judge, Salem and transfer the same to the file of the IV Family Court at Chennai.

For Petitioner : Mr.R.Thanjan

O R D E R

The Petitioner, who is the wife of the Respondent, has filed this Petition, seeking transfer of H.M.O.P.No.23 of 2019, from the file of the I Additional Subordinate Judge, Salem to the file of the IV Family Court, Chennai.

2. The Petitioner/wife has filed a Maintenance case in M.C.No.336 of 2019 before the IV Family Court, Chennai and the Respondent/husband has filed a Divorce Petition in H.M.O.P.No.23 of 2019, which is pending before the I Additional Sub Court, Salem.

3. According to the Petitioner, a female child was born to her in January 2019 and, she cannot travel all the way from Chennai to Salem to attend the trial of the case, along with her small child.

4. It is no doubt true that the Petitioner's child is about a year old and the Respondent/husband has filed a Petition for divorce, which is pending before the I Additional Subordinate Court, Salem. The Petitioner's request for transferring the proceedings from the file of the I Additional Sub-Court, Salem to the file of the Family Court at Chennai, on the ground that she has to travel all the way to Salem to attend the proceedings, may not be correct, when she has already engaged a Lawyer at Salem, to defend her case.

5. As on date, there is no Petition filed by the Respondent/husband for restitution of conjugal rights. Though, it is mandatory on the part of the parties to represent before the Family Court, as the Petitioner/wife has engaged a Lawyer at Salem to defend her case, there is no need for her to appear before the Subordinate Court at Salem along with her child, unless and otherwise required.

6. In view of the foregoing, this Transfer Civil Miscellaneous Petition is dismissed. The I Additional Subordinate Court, Salem is expected to conclude the trial in H.M.O.P.No.23 of 2019, as expeditiously as possible, without adjourning the matter beyond 30 days at any point of time. No costs. Consequently, connected C.M.P.No.26692 of 2019 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

(jas/aeb)

To :

1. The I Additional Subordinate Judge, Salem.
2. The IV Judge, Family Court, Chennai.

+1cc to Mr.R.Thanjan, Advocate, S.R.No.

Transfer CMP No.998 of 2019

RJI(CO)
CS/30/01/2020