

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR.C.M.P.No.772 of 2018 &
CMP.No.19044 of 2018

1. Mrs. Kasthuri
2. R.Manivannan

.. Petitioners

-vs-

T.Arun

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC praying to withdraw the case in GWOP.No.21 of 2018 pending on the file of Principal Sessions Judge Ariyalur, Ariyalur District and transfer the same to the Principal Family Court, Chennai, Chennai District.

For Petitioners : Mr.Sathish Kumar. M

For Respondent : Mr.J.Saravanakumar

ORDER

This petition is filed by the maternal uncle and aunt of the minor children of the respondent herein. They filed a petition for appointment of guardian in GWOP.No.21 of 2018.

2. According to the petitioners, their sister Kanagavalli was married to the respondent on 13.11.2014 and out of the wedlock, a male baby was born to them. Due to matrimonial dispute, both of them lived separately. Whiles, the respondent kidnapped the said Kanagavalli along with the child from Chennai and later, they found that Kanagavalli was brutally murdered by the respondent and the child was hidden in the respondent's sister's house at Coimbatore. Now the child is under the custody of the petitioners.

3. Whiles, the respondent herein has filed GWOP.No.21 of 2018 before the Principal Sessions Judge Ariyalur, Ariyalur District seeking custody of minor son Barani as he being the father and natural guardian of the child. During the pendency of GWOP, there was an attempt, at the instance of the respondent to kidnap the child from the custody of the petitioners. Hence they seek to withdraw the GWOP No.21 of

2018 pending on the file of Principal Sessions Judge Ariyalur, Ariyalur District and transfer the same to Principal Family Court, Chennai, Chennai District.

4. Perusal of records would reveal that the mother of the minor child was said to have been murdered by the respondent/husband. To know the whereabouts of the sister, a Habeas Corpus petition in HCP.No.744 of 2017 was also filed by the petitioners, during which time, the petitioners came to know about the kidnap of their sister along with the child by the respondent herein. It is seen that the respondent has filed GWOP.No.21 of 2018 before the Principal Sessions Judge Ariyalur, Ariyalur District seeking custody of the minor child. Now the petitioners apprehend some threat of kidnapping and danger to the life of the minor child. Therefore, they seek to transfer the trial of the GWOP.No.21 of 2018 pending on the file of Principal Sessions Judge Ariyalur, Ariyalur District to Principal Family Court, Chennai, Chennai District.

5. It is the statutory position that as per section 9 of the Guardians and Wards Act, the petition has to be filed within the jurisdiction of the District Court, where the minor resides. Admittedly the place of residence of the petitioner and the minor under their custody is at Ariyalur. Hence the petition cannot be transferred to any other Court at the convenience of the petitioners herein. However, considering the graveness of the situation, a direction is issued to Principal Sessions Judge Ariyalur, Ariyalur District to give priority to this case and dispose of the same, within a period of three months from the date of receipt of a copy of this order.

6. The petitioners are entitled to file a petition to dispense with their appearance before the Principal Sessions Judge Ariyalur, Ariyalur District except for effective hearings. On such filing of petition, the Principal Sessions Judge Ariyalur, Ariyalur is directed to consider the same and pass orders.

7. With the above direction, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected CMP.No.19044 of 2018 is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr

TO

1.The Principal sessions Judge,
Ariyalur, Ariyalur.

+1cc to Mr. S.Saravanakumar, Advocate, S.R.No.24800

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PM(CO)
GN(08/05/2019)



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