

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.02.2020
CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
Transfer C.M.P.No.107 of 2020

S.Sowmiya

... Petitioner

vs.

1.

K.V.Sathishkumar

... Respondent

Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw and transfer the case in F.C.O.P.No.241 of 2019 from the file of the Family Court, Chengalpattu to the file of the Sub Court, Poonamallee.

For Petitioner : Mr.P.S.Prem Kumar

O R D E R

Petitioner/wife, who is residing in Chennai, has come up with this Petition seeking transfer of F.C.O.P.No.241 of 2019 from the file of the Family Court, Chengalpattu to the file of the Sub Court, Poonamallee.

2. According to the Petitioner/wife, she went to Indonesia to take care of her parents and is staying with her parents till date. During the Petitioner's stay at Indonesia, the Respondent/husband filed a Petition for divorce in F.C.O.P.No.241 of 2019 on the file of the Family Court, Chengalpattu.

3. Admittedly, F.C.O.P.No.241 of 2019 has been filed within the jurisdiction Court at Chengalpattu. Even assuming that, the matter is transferred to the Sub Court at Poonamallee, if the matter is not settled between the parties, Appeal lies before the District Court and thereafter to the High Court. If the proceedings are transferred for trial before a Family Court, then, Appeal will directly lie before this Court.

4. Learned counsel for the Petitioner submitted that, the Petitioner is about to file a Petition claiming maintenance. However, she did not evince any interest to file a Petition for restitution of conjugal rights, or has filed an Affidavit stating that is prepared to live with him.

5. Whether the Petitioner has gone to Indonesia on a Tourist VISA or on a Visiting VISA, cannot be gone into in this Transfer Civil Miscellaneous Petition. If the Petitioner fails to discharge her matrimonial obligation, she has to face natural consequences, and the ground of transfer of the divorce proceedings from the file of the Family Court, Chengalpattu to the file of the Sub Court, Poonamallee, is not justifiable and this Petition is liable to be dismissed.

6. The Family Court, Chengalpattu, is expected to conclude the trial in F.C.O.P.No.241 of 2019, expeditiously, on a day-to-day basis without adjourning the same beyond 30 working days at any point of time. If the parties fail to appear before the Family Court, Chengalpattu, an exparte decision may be taken.

The Transfer Miscellaneous Petition is dismissed with the above observation. No costs. Consequently, connected C.M.P.No.3688 of 2020 is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

(aeb)

To :
The Judge
Family Court, Chengalpattu.

+1 cc to Mr.Premkumar Advocate sr14512

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Tr.C.M.P.No.107 of 2020

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