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Tr.CMP.No.164 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.CMP.No.164 of 2020

Sundar

.. Petitioner

vs.

1.S.Divya

2.Minor S.Pragathi

3.Minor S.Gowtham

.. Respondents

(Minor petitioners 2 and 3  
are represented by their  
mother and natural guardian,  
the 1<sup>st</sup> petitioner)

Petition filed under Section 24 of Code of Civil Procedure to  
withdrawn and to transfer the M.C.No.2 of 2020 on the file of the Family  
Court, Srivilliputtur, Virudhu Nagar District to the Principal Family Court,  
Chennai.

For Petitioner : Mr.N.Balaji

For Respondents : Mr.P.Raja

ORDER

This petition has been filed to withdraw and transfer M.C.No.2 of  
2020 on the file of the Family Court, Srivilliputtur, Virudhu Nagar District  
to the Principal Family Court, Chennai.



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3. The relationship between the parties is not in dispute. The marriage had taken place in the year 2014 and thereafter, it has hit the rocks. From the wedlock, two children have born and they are in the custody of the mother and they are the respondents before me.

4. Though normally the convenience of the wife alone is considered in terms of Section 21 of the Hindu Marriage Act, this is a peculiar case where the husband has suffered injury and has undergone four operations and still not in a position to carry on his normal life. Therefore, he has come forward with this transfer petition seeking to transfer the proceedings in HMOP.No.4405 of 2019 on the file of the Principal Family Court, Chennai to be heard and tried along with M.C.No.2 of 2020 which is pending before the Family Court, Srivilliputtur, Virudhunagar District. The wife is young and she is having two minor children. Therefore, her travel from Virudhunagar to Chennai, could be well nigh impossible.



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5. Taking into consideration the hardship on either side, I requested the counsels to suggest a common Court in which the proceedings shall go on. Both of them agreed that the Family court at Trichirapalli would be ideal, as it would be equal distance from Virudhunagar as well as from Chennai.

6. Accordingly, HMOP No.4405/2019 on the file of the Principal Family Court, Chennai and M.C.No.2/2020 which has been re-numbered as M.C.No.226/2020 on the file of the Family Court, Chennai, are withdrawn and transferred to the file of the Family Court at Trichirapalli.

7. On the request of either side, the following directions are issued:

- (i) The family Court at Trichirapalli shall attempt to settle the matter through mediation between the parties to the proceedings.
- (ii) If the mediation fails, then the Court will start adversarial process and it need not insist on the presence of either the petitioner or the respondents, unless and until their presence is essential.



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(iii) The parties are permitted to appear through their counsel by filing appropriate amicus petition in terms of the Family Court Act, 1984.

8. At this stage, Mr.P.Raja, learned counsel for the respondents, submits that the petitioner/father may be directed to pay the school fees for the two children.

9. Learned counsel appearing for the petitioner very graciously agreed that his client will pay the amounts on production of the bills paid by the first respondent/wife.

10. In fine, Transfer CMP.No.164 of 2020 is allowed and the proceedings viz., HMOP.No.4405 of 2019 pending before the Principal Family Court, Chennai and M.C.No.226 of 2020 on the file of the Family Court, Chennai shall stand withdrawn and the proceedings will now continue afresh before the Family Court at Trichirapalli. Since the proceedings are going to commence afresh, Mr.P.Raja undertakes that he would withdraw CRP.No.2355 of 2023, which is pending before this



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court. The said statement is recorded.

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11. Accordingly, this Transfer CMP is allowed with the above terms. No costs.

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Index:Yes/No

Speaking order/Non speaking order

Neutral Citation:Yes/No



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To

- 1.The Judge, Family Court, Srivilliputtur,  
Virudhunagar District.
- 2.The Principal Judge, Family Court, Chennai.
3. The Judge, Family Court, Thirichirapalli.



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**V. LAKSHMINARAYANAN,J.**  
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