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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

TR.C.M.P.No.588 of 2019

and C.M.P.No.16983 of 2019

M.Saranya

... Petitioner

-vs-

M.Senthil Murugan

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C. to withdraw the case in H.M.O.P.No.149 of 2018 on the file of the learned Subordinate Judge, Uthamapalayam and transfer the same to be tried along with M.C.No.311 of 2019 on the file of III Additional Family Court, Chennai.

For Petitioner : Mr.J.Shanmuga Sundara Babu
For Respondent : Mr.J.Viswanathan

O R D E R

This petition has been filed to transfer the case in H.M.O.P.No.149 of 2018 pending on the file of the learned Subordinate Judge, Uthamapalayam to the file of the III Additional Family Court, Chennai to be tried with M.C.No.311 of 2019.

2. The learned counsel for the petitioner has submitted that after desertion by the respondent / husband, the petitioner / wife has been residing in the house of her sister at Chennai and she finds it difficult to attend the hearings in H.M.O.P.No.149 of 2018 before the Subordinate Court, Uthamapalayam and therefore, the case may be transferred to the III Additional Family Court, Chennai, in which the petitioner has filed a case in M.C.No.311 of 2019 seeking for maintenance .

3. It is represented by the learned counsel for the respondent / husband that no cause of action has arisen at Chennai and in order to file M.C.No.311 of 2019, a Bank Account has been opened in Chennai in the month of June, 2019 and therefore, there is no valid ground made out for transfer of the case.

4. Heard the learned counsel for the parties.



5. It is seen that the cause of action has arisen only in Uthamapalayam and the jurisdictional Court to hear H.M.O.P.No.149 of 2018 is only the Subordinate Court, Uthamapalayam. The method adopted by the petitioner to simply file a case at Chennai is not justifiable and is deprecated. Therefore, this Court is not inclined to transfer the case in H.M.O.P.No.149 of 2018 pending on the file of the Subordinate Court, Uthamapalayam to the III Additional Family Court, Chennai, instead the maintenance case in M.C.No.311 of 2019 is liable to be tried along with H.M.O.P.No.149 of 2018 for joint trial, by invoking the provisions of Section 24 of C.P.C.

6. Accordingly, the Transfer Civil Miscellaneous Petition is disposed of, with a direction to the III Additional Family Court, Chennai to transfer the case in M.C.No.311 of 2019 to the file of the Subordinate Court, Uthamapalayam, within a period of two weeks from the date of receipt of a copy of this order. After transfer of M.C.No.311 of 2019 to its file, the Subordinate Court, Uthamapalayam is directed to take up both the cases in H.M.O.P.No.149 of 2018 and M.C.No.311 of 2019 and proceed with the same jointly, without adjourning the matter beyond 30 working days at any point of time and bring the issues to a logical end as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To:

1. The Subordinate Court Judge,
Uthamapalayam.
2. The III Additional Family Court Judge,
Chennai.

Tr.C.M.P.No.588 of 2019

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