



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Tr.C.M.P(MD)No.66 of 2019

and

C.M.P(MD) No.1684 of 2019

Antony Jackline

... Petitioner/Respondent/Wife

-Vs-

Andrew Merwin

... Respondent/Petitioner/Husband

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw IDOP No.360 of 2019 on the file of the Family Court, Chennai and transfer the same to the Hon'ble Family Court, Tiruchirappalli.

For Petitioner : Mr.R.Narayanan
For Respondent : No Appearance

O R D E R

The petitioner/wife, who is facing the proceedings for restitution of conjugal rights at the instance of the husband in IDOP No.360 of 2019 on the file of the Family Court, Chennai, seeks to withdraw and transfer the same to the Family Court, Tiruchirappalli.

2. The petitioner herein is the wife. The respondent herein is the husband. The marriage between the petitioner and the respondent was solemnized on 01.06.2016. Out of the wedlock, one male child was born. Subsequently, there was a misunderstanding between the petitioner and the respondent. Thereafter, they lived separately. The petitioner has filed a maintenance case in M.C.No.50 of 2018 on the file of the Court of Chief Judicial Magistrate, Tiruchirappalli. The respondent has also filed a petition in IDOP No.360 of 2019 for restitution of conjugal rights on the file of the Family Court, Chennai. The petitioner now resides at Tiruchirappalli and she is unable to pursue the Court proceedings from Tiruchirappalli to Chennai. Hence, she came forward to file this Transfer Miscellaneous Petition with a prayer to withdraw the case in IDOP No.360 of 2019 and transfer the same to the Chief Judicial Magistrate, Tiruchirappalli, to be tried along with M.C.No.50 of 2018.



3. Though the respondent has been served and his name appeared in the cause list, there is no representation on his behalf.

4. Admittedly, the wife resides at Tiruchirappalli and transfer is sought for mainly on the ground of convenience.

WEB COPY

5. The Hon'ble Supreme Court in the judgment reported in **2008 (9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, has held that "convenience of woman is to be taken into consideration first while considering transfer application."

6. In the light of the aforesaid decision and also being satisfied with the reasons stated in the transfer petition filed by the wife, this Court is inclined to transfer IDOP No.360 of 2019, on the file of the Family Court, Chennai to the Chief Judicial Magistrate Court, Tiruchirappalli to be tried along with M.C.No.50 of 2018.

7. Accordingly, this Transfer Civil Miscellaneous Petition stands allowed. The learned Judge, Family Court, Chennai is directed to transmit the papers to the Chief Judicial Magistrate Court, Tiruchirappalli forthwith.

8. The learned Chief Judicial Magistrate, Tiruchirappalli, is directed to dispose of the proceedings in IDOP No.360 of 2019 along with M.C.No.50 of 2018 within a period of six months from the date of receipt of the papers from the Family Court, Chennai, after due notice and opportunity to both parties. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Judge,
Family Court, Chennai.

2. The Chief Judicial Magistrate,
Tiruchirappalli.

3. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 Copies)

+1 CC to M/s.T.BANUMATHY, Advocate (SR-22857[F] dated 26/11/2020)

Tr.C.M.P (MD) No.66 of 2019
and C.M.P. (MD) No.1684 of 2019

26.11.2020

VR (CO)

NR (07/12/2020) 3P : 6C