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Tr.C.M.P(MD)Nos.531/2019 & 7/2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2020

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THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

Tr.C.M.P (MD)No.531 of 2019

and

C.M.P (MD) No.12405 of 2019

and

Tr.C.M.P (MD)No.7 of 2020

and

C.M.P (MD)No.252 of 2020

Tr.C.M.P (MD)No.531 of 2019

S.Manju

... Petitioner

-Vs-

M.Paramasivam

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C.,to withdraw the HMOP No.79 of 2019, on the file of the learned Sub-Court, Periyakulam and transfer the same to the file of Family Court, Kanyakumari District at Nagercoil to try along with H.M.O.P.No.359 of 2019 on the file of Learned Family Court, Kanyakumari District at Nagercoil.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.M.Murugesan

Tr.C.M.P (MD)No.7 of 2020

M.Paramasivam

... Petitioner

-Vs-

S.Manju

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C.,to withdraw the case in H.M.O.P.No.359 of 2019, on the file of the Family Court, Nagercoil, Kanyakumari District and transfer the same to the Sub Court, Periyakulam, Theni District along with the petitioner's case in H.M.O.P.No.79 of 2019, on the file of the Sub Court, Periyakulam, Theni District for further trial.

For Petitioner : Mr.M.Murugesan

For Respondent : Mr.M.P.Senthil



C O M M O N O R D E R

The prayer in Tr.C.M.P(MD)No.531 of 2019 filed by the wife is to transfer the H.M.O.P.No.79 of 2019 pending on the file of the Sub-Court, Periyakulam to Family Court, Nagercoil to be tried along with H.M.O.P.No.359 of 2019 filed by the wife seeking restitution of conjugal rights.

2. Tr.C.M.P(MD)No.7 of 2019 has been filed by the husband seeking transfer of H.M.O.P.No.359 of 2019 on the file of the Family Court, Nagercoil to Sub-Court, Periyakulam to be tried along with H.M.O.P.No.79 of 2019.

3. The husband is admittedly a resident of Chennai and he is working there. The wife is resident of Nagercoil. The above petitions were heard on 24.01.2010 and an order was passed directing transfer of both the proceedings namely H.M.O.P.No.79 of 2019 and H.M.O.P.No.359 of 2019 to the Sub-Court, Kovilpatti, since the learned counsel for the husband expressed reservation in travelling to Nagercoil, which is the native place of wife. The fact that the proceedings before the Family Court, Nagercoil will require the presence of the parties for every hearing was also taken into account. After the order was passed, Mr.M.P.Senthil, learned counsel appearing for the wife namely, the petitioner in Tr.C.M.P. (MD)No.531 of 2019 made a request for transfer to Sub-Court, Tirunelveli since the main thrust of the objection of the learned counsel for the husband was that he could not conduct the proceedings peacefully at Nagercoil due to the threat caused by the family of the wife. Considering the said request, I have directed the matter to be listed today for being mentioned.

4. The learned counsel for the husband would submit that the husband has strong reservation in going to Tirunelveli also. According to him, he would have to spend for lodging as well as travelling to go to Tirunelveli. On the other hand, he is willing to travel to Kovilpatti since he could stay in his sister's house at Madurai. The distance between Madurai to Tirunelveli is 160 kms and Madurai to Kovilpatti is 105 kms. So the extra distance to be covered by the husband is only 55 kms. I therefore, do not think that the transfer of the proceedings to Tirunelveli would cause any great prejudice to the husband.

5. The travel time between Madurai and Tirunelveli will also be less, considering the fact that it is covered by four-lane highway. Therefore, both the proceedings in H.M.O.P.No.79 of 2019 pending on the file of the Sub-Court, Periyakulam and H.M.O.P.No.359 of 2019, pending on the file of the Family Court, Nagercoil are withdrawn and they are transferred to Sub-Court, Tirunelveli to be tried together and disposed of. The Sub-Court, Periyakulam and the Family Court, Nagercoil are directed to forward the papers in the



above original petitions to the Sub-Court, Tirunelveli, forthwith. The Sub-Court, Tirunelveli is directed to dispose of the proceedings in accordance with law as expeditiously as possible. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Sub Judge,
Periyakulam.
2. The Judge,
Family Court,
Nagercoil.
3. The Sub Judge,
Tirunelveli.

+1 CC to Mr.V.KANNAN, Advocate (SR-2941[F] dated 24/01/2020)

+1 CC to Mr.M.P.SENTHIL, Advocate (SR-3593[F] dated 29/01/2020)

Tr.C.M.P(MD)No.531 of 2019

and

Tr.C.M.P(MD)No.7 of 2020

27.01.2020

VB(03.02.2020) 3P 6C