

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.242 of 2021
and
C.M.P. No.6654 of 2021

Saranya ... Petitioner

Vs.

Sharmaa ... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.11 of 2020 from the file of Sub Court, Palladam and transfer the case to the Sub Court, Thiruchengode.

For Petitioner : Mr. V.Vargees Amal Raja

For Respondent : No appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife to withdraw the proceedings in H.M.O.P.No.11 of 2020 pending on the file of the Sub Court, Palladam and transfer the same to the Sub Court at Thiruchengode.

2. The petitioner is the wife. The marriage between the petitioner and the respondent/husband was solemnized on 26.06.2017 at Thiruchengode. The petitioner states that after the marriage, she was living with her husband/respondent at Palladam. Out of the wedlock, the petitioner gave birth to one female child now aged about three years. It appears that the respondent/husband has filed a petition in H.M.O.P.No.11 of 2020 for Restitution of Conjugal Rights under Section 9 of the Hindu Marriage Act, 1955 before the Sub Court, Palladam. The petitioner states that she has filed M.C.No.9 of 2020 before the Judicial Magistrate Court, Thiruchengode for maintenance. The petitioner further states that it is very difficult for her to travel with the little child to appear before the Court at Palladam for every hearing. Since the respondent is already appearing before the Judicial Magistrate Court, Thiruchengode in

the maintenance case, the petitioner/wife states that it would be convenient for both to appear for the matrimonial dispute before the Sub Court, Thiruchengode.

3. Though notice was served on the respondent as early as on 01.05.2021, he did not choose to appear before this Court or to engage the counsel to represent his case.

4. In a petition filed by the husband for Restitution of Conjugal Rights, the convenience of wife is relevant. Having regard to the facts narrated in the affidavit filed in support of this petition and the fact that the petitioner is living with her female child along with her parents, this Court is fully convinced that the petitioner should not be put to much inconvenience by travelling such a long distance with her child. Since the respondent has not chosen to deny the allegations, this Court assumes that the respondent has no defence in transferring the case filed by the petitioner/wife. Accordingly, the proceedings in H.M.O.P. No.11 of 2020 pending on the file of Sub Court, Palladam, are hereby withdrawn and transferred to Sub Court, Thiruchengode. In case the petitioner/wife fails to appear for two or more consecutive hearings, the respondent will have an option to seek modification of this order or is at liberty to file a fresh transfer petition before this Court.

5. This Transfer Civil Miscellaneous Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rrg

Copy To:

- 1.The Sub Court, Palladam.
- 2.The Sub Court, Thiruchengode.

+1cc to Mr.V.Vargees Amal Raja, Advocate, S.R.No.34832

Tr. C.M.P. No.242 of 2021

UM(CO)
CB(13/08/2021)