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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.164 of 2021
and C.M.P.No.4883 of 2021

M.Anitha

...Petitioner

Vs.

K.Saravanan

...Respondent

Prayer: This Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in H.M.O.P.No.44 of 2020 pending on the file of the Subordinate Court, Sankari, Salem District and transfer the same to the Family Court, Erode.

For Petitioner	:	Mr.Anna Gandhi for I.C.Vasudevan
For Respondent	:	No appearance

O R D E R

(The case has been heard through video conference)

The present Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.44 of 2020 on the file of the Subordinate Court, Sankari, Salem District and transfer the same to the file of the Family Court, Erode for having joint trial along with H.M.O.P.No.42 of 2021 pending on the file of the Family Court, Erode.

2. The petitioner/wife has filed H.M.O.P.No.42 of 2021 before the Family Court, Erode for restitution of conjugal rights. The respondent/husband has filed H.M.O.P.No.44 of 2020 before the Subordinate Court, Sankari, Salem District for the relief of divorce.

3. The learned counsel for the petitioner/wife submitted that the petitioner is living with support of her aged parents and she is working at Erode as Block Resource Teacher Educator. In such circumstances, she finds it is very difficult to travel about 30 kms from Erode to Sankari for attending every hearing in H.M.O.P.No.44 of 2020 on the file of the Subordinate Court, Sankari. It is further stated that the respondent/husband is also working in Erode as Inspector at State Government Audit Department.



4. Today, when the matter is taken up for hearing, there is no representation on behalf of the respondent either in person or through counsel.

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5. This Court considered the arguments made by the learned counsel for the petitioner.

6. This Court is satisfied with the reasons stated in the affidavit filed in support of this petition. Further, since two cases are pending from two different Courts i.e., the wife filed a petition for restitution of conjugal rights and the husband filed an application for divorce, to avoid multiplicity of proceedings and conflicting judgements, both the cases have to be tried before a single Judge.

7. Considering the facts and circumstances of the case and considering the submission made by the learned counsel for the petitioner, H.M.O.P.No.44 of 2020 is withdrawn from the file of the Subordinate Court, Sankari and transferred to the file of the Family Court, Erode to be tried along with H.M.O.P.No.42 of 2021 for disposal as per law. The learned Subordinate Judge, Sankari, is directed to transmit the papers to the Family Court, Erode forthwith. The learned Judge, Family Court, Erode is directed to dispose H.M.O.P.No.44 of 2020 along with H.M.O.P.No.42 of 2021 on merits and in accordance with law as expeditiously as possible.

8. The personal appearance of both parties before the Family Court, Erode, is dispensed with, except the dates of hearing, on which, the learned Judge insisted upon the parties to appear before the Court. On other hearing dates, the counsel on behalf of the parties may appear before the Court.

9. In fine, this petition is allowed. No costs. Consequently, connected miscellaneous petition is closes.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kk
To

1. The Subordinate Judge, Sankari
Salem District.



2.The Judge Family Court, Erode.

+1 CC to M/s.I.c.Vasudevan, Advocate, Sr.No. 39024.

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RSV (CO)
LS (27/08/2021)