



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.212 of 2021
and
C.M.P.No.5990 of 2021

[Through video conferencing]

Tmt.Y.Jeevabharathi

...Petitioner

-vs-

D.Stanley Prince

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in I.D.O.P.No.17 of 2012 on the file of the Principal District Court, Tiruppur and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.S.Senthilkumar

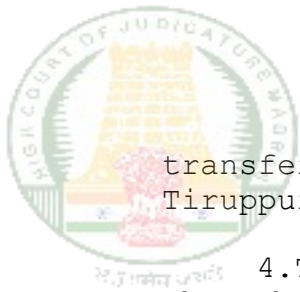
For Respondent : Mr.J.Franklin

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in I.D.O.P.No.17 of 2012 on the file of the Principal District Court, Tiruppur and transfer the same to the Family Court, Coimbatore.

2.The respondent/husband has filed I.D.O.P.No.15 of 2010 before the District Court at Coimbatore for divorce and due to bifurcation of districts, the case was transferred to the Principal District Court at Tiruppur and re-numbered as I.D.O.P.No.17 of 2012.

3.The learned counsel for the petitioner/wife submitted that the petitioner is depending on her old age mother and she is having medical complications like Low BP, Low Sugar causing nausea and dizziness and the doctor has advised her not to travel anywhere. The learned counsel would further submit that since the petitioner is being a lady, she finds it very difficult to travel alone to Tiruppur for attending the Court on every hearings in I.D.O.P.No.17 of 2012. Therefore, she seeks to



transfer the case from the file of the Principal District Court, Tiruppur to the Family Court, Coimbatore on medical grounds.

4.The learned counsel for the respondent/husband submitted that due to viral fever, the respondent has not appeared before the District Court at Tiruppur in I.D.O.P.No.17 of 2012 and hence the case was dismissed for default and immediately, the respondent filed a petition for restoration and that was also dismissed. Hence, against the dismissal of restoration petition, the respondent preferred an appeal in C.M.A.No.1575 of 2013 before this Court and this Court by Judgment dated 04.06.2020, allowed the CMA and directed the Trial Court to dispose of the I.D.O.P. within a period of four months from the date of receipt of a copy of that Judgment. The learned counsel further submitted that after the disposal of CMA, the case was posted for petitioner side evidence and on several occasions, the petitioner/wife has not appeared before the Court and therefore she was set exparte and thereafter she filed a petition to set aside the ex-parte order and the same was allowed and thereafter the matter was posted for petitioner/wife side evidence and on every hearings she got adjournment and now she filed this petition to transfer the case. Therefore, the learned counsel seeks dismissal of the Transfer Civil Miscellaneous Petition.

5.Heard the learned counsel on either side and perused the materials available on record.

6.Considering the facts and circumstances of the case and the submissions made by both the learned counsel on either side and also considering the fact that already this Court in C.M.A.No.1575 of 2013, dated 04.06.2020 has directed the Trial Court to complete the trial within a period of four months, this Court is not inclined to transfer the case to the file of the Family Court at Coimbatore.

7.Accordingly, this Transfer Civil Miscellaneous Petition is dismissed and as per the judgment passed by this Court in C.M.A.No.1575 of 2013, dated 04.06.2020, the learned Principal District Judge, Tiruppur is directed to dispose of the case in I.D.O.P.No.17 of 2012, on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



ssi

To:

1. The Principal District Judge,
The Principal District Court,
Tiruppur.
2. The Judge,
The Family Court,
Coimbatore.

+1cc to Mr.S.Senthilkumar, Advocate, S.R.No.41922

+1cc to Mr.J.Franklin, Advocate, S.R.No.42019

Tr.C.M.P.No.212 of 2021
and C.M.P.No.5990 of 2021

BR[co]
NSK 29/09/2021