



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.172 of 2021
and
C.M.P.No.5186 of 2021

J.Sowmiya

.. Petitioner

Vs.

1. R.Jai Ganesh
2. Maideen Khan

.. Respondents

Prayer: This Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in H.M.O.P.No.32 of 2019 pending on the file of the Sub Court, Arani and transfer the same to the file of the III Additional Family Court, Chennai.

For Petitioner : Mr.A.Tamilselvan

For Respondent 1 : Mr.K.V.Shanmuganathan

O R D E R

(The case has been heard through video conference)

The petitioner, being the wife of the first respondent herein, has come up with the present petition seeking to transfer H.M.O.P.No.32 of 2019, filed by the first respondent for divorce, which is pending on the file of the Sub Court, Arani to the file of the III Additional Family Court, Chennai.

2. The learned counsel appearing for the petitioner submitted that the petitioner is living alone with her two years old child at Chennai and she finds it very difficult to travel from Chennai to Arani for attending the Court on every hearings in H.M.O.P.No.32 of 2019. It is further submitted that already maintenance case in M.C.No.85 of 2020 filed by the petitioner/wife is pending before the III Additional Family Court, Chennai. In these circumstances, on the ground of



convenience, she seeks to transfer the case from the Subordinate Court, Arani to the file of the III Additional Family Court, Chennai.

3. Mr.K.V.Shanmuganathan, learned counsel appearing for the first respondent strongly opposed the transfer of the case from Arani to Chennai. The learned counsel submitted that the present transfer petition has been filed only to harass the first respondent. The learned counsel further submitted that the first respondent is working in Bangalore and it will be very difficult for him to appear before the Family Court at Chennai. The learned counsel further submitted that personal appearance of the petitioner and the first respondent before the Subordinate Court, Arani is not necessary and hence the case may be heard at the Sub Court, Arani itself.

4. It is well settled that the wife's convenience should be considered while deciding whether the matrimonial dispute should be transferred to the place of the wife. Hence, considering the facts and circumstance of the case, this Court is inclined to withdraw the H.M.O.P.No.32 of 2019 from the file of the Subordinate Court, Arani and transfer the same to the file of the III Additional Family Court, Chennai. The learned Subordinate Judge, Arani is directed to transmit the papers pertaining to H.M.O.P.No.32 of 2019 to the file of the III Additional Family Court, Chennai, forthwith. The learned Judge, III Additional Family Court, Chennai, is directed to dispose of the case in H.M.O.P.No.32 of 2019 on merits and in accordance with law as expeditiously as possible.

5. The personal appearance of both parties before the III Additional Family Court, Chennai, 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.

6. In fine, this Transfer Civil Miscellaneous Petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

kk



To

1. The Subordinate Judge,
Arani.

2. The III Additional Family Court,
Chennai.

+lcc to Mr.K.V.Shanmuganathan, Advocate, S.R.No.40950

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KV (CO)
SU (22/09/2021)