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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.183 of 2021
and C.M.P.No.5427 of 2021

Manimegala

...Petitioner

Vs.

R.Senthilkumar

...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.49 of 2020 pending on the file of the Sub Court, Palladam, Tirupur District and transfer the same to the file of the Sub Court, Gobichettipalayam, Erode district.

For Petitioner : Mr.S.Parthasarathy
For Respondent : Mr.S.N.S.Suganthan

O R D E R

(The case has been heard through video conference)

The petitioner, being the wife of the respondent herein, has come up with the present petition seeking to transfer H.M.O.P.No.49 of 2020, filed by the respondent for restitution of conjugal rights, which is pending on the file of the Sub Court, Paddalam to the file of the Sub Court, Gobichettipalayam.

2. The learned counsel appearing for the petitioner submitted that the petitioner is residing in her parents house along with her minor child at Palladam and she finds it very difficult to travel 75 kilometers from Palladam to Gobichettipalayam for attending the Court on every hearings in H.M.O.P.No.49 of 2020. Further, the petitioner has also filed a DVA case before the learned Judicial Magistrate, Gobichettipalayam and for attending the said case the respondent has to necessarily come to Gobichettipalayam. Further, the petitioner also apprehend that she may be attacked by the respondent's family members if she goes to the Court at Palladam as she has initiated Domestic Violence proceedings against the family members of the respondent in Tirupur District. In these circumstances, on the ground of convenience, she seeks to transfer the case from the Subordinate Court, Palladam to the file of the Subordinate Court, Gobichettipalayam.



3. The learned counsel for the respondent/husband strongly opposed to transfer the case to Gobichettipalayam. However, he submitted that if the matter is referred to Mediation, there could be amicable settlement between the parties.

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4. This Court considered the arguments made by the learned counsel on either side.

5. 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. Considering the facts and circumstances of the case and considering the submission made by the learned counsel on either side, H.M.O.P.No.49 of 2020 is withdrawn from the file of the Sub Court, Palladam and transferred to the file of the Sub Court, Gobichettipalayam for disposal as per law. The learned Subordinate Judge, Palladam, is directed to transmit the papers to the Subordinate Court, Gobichettipalayam forthwith. The learned Subordinate Judge, Gobichettipalayam is directed to refer the matter to Mediation and on receiving the report of the Mediator is directed to dispose of H.M.O.P.No.49 of 2020 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
The Subordinate Court,
Palladam, Tirupur District.

2. The Subordinate Judge,
Gobichettipalayam, Erode District.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.41410

+1cc to Mr.S.N.Suganthan, Advocate, S.R.No.40813

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BR[co]

NSK 28/09/2021