



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.239 of 2021
and
C.M.P.No.6632 of 2021
[Through video conferencing]

Mrs.R.Naveetha ... Petitioner
-vs-
Mr.Jagadeesh Kumar ... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.10 of 2021 on the file of the Family Court at Thiruvallur and transfer to the Subordinate Judge at Gudiyatham to taken along with H.M.O.P.No.29 of 2021 which is pending on the file of the Subordinate Court, Gudiyatham or any other Court having jurisdiction at Vellore.

For Petitioner : Mr.D.Padmanabhan
For Respondent : Mrs.N.P.Nagalakshmi

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.10 of 2021 on the file of the Family Court at Thiruvallur and transfer to the Subordinate Judge at Gudiyatham taken along with H.M.O.P.No.29 of 2021 which is pending on the file of the Subordinate Court, Gudiyatham or any other Court having jurisdiction at Vellore.

2.The petitioner/wife has filed H.M.O.P.No.29 of 2021 before the Subordinate Court at Gudiyatham for restitution of conjugal rights. The respondent/husband has filed H.M.O.P.No.10 of 2021 before the Family Court at Thiruvallur for divorce.

3.The learned counsel for the petitioner/wife submitted that the petitioner is living with the support of her aged parents and having 2 years old child. The distance between Vellore and Thiruvallur is around 150 Kms. He would submit that since the petitioner has facing physical and financial problem, she was unable to travel from Vellore to Thiruvallur for attending every hearing in H.M.O.P.No.10 of 2021 on the file of the Family Court at Thiruvallur. Therefore she seeks to transfer the case in H.M.O.P.No.10 of 2021 from the file of the Family Court at Thiruvallur to the file of the Subordinate Court at Gudiyatham tried along with H.M.O.P.No.29 of 2021



pending on the file of the Subordinate Court at Gudiyatham.

4.The learned counsel appearing for the respondent submitted that the petitioner has an ulterior motive came before this Court with false allegations against the respondent seeking transfer this case and hence, he strongly opposed for allowing this petition.

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

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 on either side, H.M.O.P.No.10 of 2021 is withdrawn from the file of the Family Court at Thiruvallur and transferred to the file of the Subordinate Court at Gudiyatham to be tried along with H.M.O.P.No.29 of 2021 for disposal as per law. The learned Family Judge, Thiruvallur, is directed to transmit the papers to the Subordinate Court, Gudiyatham forthwith. The learned Subordinate Judge, Gudiyatham is directed to dispose H.M.O.P.No.10 of 2021 along with H.M.O.P.No.29 of 2021 on merits and in accordance with law as expeditiously as possible.

8. In fine, this petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Family Court, Thiruvallur.
2. The Subordinate Court, Gudiyatham.

+2cc to Mr.D.Padmanabhan, Advocate, S.R.No. 41889

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