



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.Nos.364 & 213 of 2021
and
C.M.P.Nos.8536 & 5996 of 2021

[Through video conferencing]

Banibai ...Petitioner in both the cases

-vs-

P.R.Haribalamani ...Respondent in both the cases

PRAYER in Tr.C.M.P.No.364 of 2021: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.277 of 2020 on the file of the Family Court at Salem and transfer the same to the Family Court at Chengalpattu.

PRAYER in Tr.C.M.P.No.213 of 2021: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.P.No.206 of 2020 on the file of the District Court at Salem and transfer the same to the District Court at Chengalpattu.

For Petitioner : Ms.Chellammal
in both cases For Mr.D.Padmanabhan

For Respondent : Mr.P.Tamilavel
in both cases

C O M M O N O R D E R

Since both the transfer Civil Miscellaneous petitions have been preferred on the same set of facts, submissions being common, they are taken up together and disposed of by means of this common order.

2. The Transfer Civil Miscellaneous Petition No.364 of 2021 is filed by the wife seeking to withdraw the H.M.O.P.No.277 of 2020, filed by the husband for divorce, pending on the file of the Family Court at Salem and transfer the same to the Family Court at Chengalpattu.



3. The Transfer Civil Miscellaneous Petition No.213 of 2021 is filed by the wife seeking to withdraw the O.P.No.206 of 2020, filed by the husband under Guardian and Wards Act to appoint him as the guardian of his minor daughter, pending on the file of the District Court at Salem and transfer the same to the District Court at Chengalpattu.

4. The learned counsel appearing for the petitioner/wife submitted that the petitioner is residing with her parents and studying in a college at Kancheepuram and she finds it very difficult to travel 300 kilometers from Kancheepuram to Salem for attending the Court on every hearings in H.M.O.P.No.277 of 2020 and O.P.No.206 of 2020. Further, the petitioner has also filed a police complaint against the respondent and therefore she apprehend that she may be attacked by the respondent if she goes to the Court at Salem. In these circumstances, on the ground of convenience, she seeks to transfer both the cases from the Family Court, Salem and District Court, Salem respectively to the file of the Family Court, Chengalpattu.

5. The learned counsel appearing for the respondent/husband submitted that the respondent has no serious objection in transferring the H.M.O.P.No.277 of 2020 to the file of the Family Court, Chengalpattu, however the respondent strongly oppose the transfer of O.P.No.206 of 2020 to Family Court, Chengalpattu as it will be very difficult for him to take his four years old girl child to Chengalpattu.

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

7. This Court is satisfied with the reasons stated in the affidavit filed by the petitioner/wife in support of these petitions. Further, since two cases are pending in two different Courts i.e., the respondent/husband filed a petition for appointing him as the guardian of his minor daughter and another petition for divorce, to avoid multiplicity of proceedings, both the cases have to be tried before a single Judge.

8. 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.277 of 2020 is withdrawn from the file of the Family Court at Salem and transferred to the file of the Family Court at Chengalpattu. The learned Judge, Family Court, Salem, is directed to transmit the papers to the Family Court, Chengalpattu forthwith. Likewise O.P.No.206 of 2020 is withdrawn from the file of the District Court, Salem and transferred to the file of the Family Court at Chengalpattu. The learned District Judge, Salem, is directed to transmit the papers to the Family Court, Chengalpattu forthwith. The learned Judge, Family



Court, Chengalpattu is directed to dispose of H.M.O.P.No.277 of 2020 along with O.P.No.206 of 2020 on merits and in accordance with law as expeditiously as possible.

9. The personal appearance of both parties before the Family Court, Chengalpattu, 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.

10. In fine, the Transfer Civil Miscellaneous Petitions are allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Judge, Family Court, Salem.
2. The District Judge, Salem.
3. The Judge, Family Court, Chengalpaattu.

Tr.C.M.P.Nos.364 & 213 of 2021
and C.M.P.Nos.8536 & 5996 of 2021

SSI (CO)
K.RK. (22.09.2021)