



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.188 of 2021
and
CMP.No.5638 of 2021

Shirley Fenelon

... Petitioner

-vs-

P.Herbert Raj

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in IDOP.No.50 of 2021 from the file of Family Court, Tiruchy and to transfer the same to the Family Court, Chennai.

For Petitioner: Mr.A.Arulmozhi

For Respondent: Mr.Lakshmi Narayanan
Senior Counsel
for Mr.R. Devasenan

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the petition in IDOP.No.50 of 2021 from the file of Family Court, Tiruchy and to transfer the same to the Family Court, Chennai.

2. The respondent/husband has filed IDOP.No.50 of 2021 before the Family Court, Tiruchy, for divorce.

3. The learned counsel for the petitioner/wife submitted that the respondent had earlier filed a petition in IDOP.No.69 of 2017 for divorce and the petitioner has filed TR.CMP.No.203 of 2017 to transfer the petition from the Family Court, Tiruchy to the Family Court, Chennai and the same has been allowed by this court on 06.06.2018 and renumbered as IDOP.No.2865 of 2018. In the said petition, after mediation proceedings, both were reunited and stayed in Tiruchy for 3 days. Thereafter, he left to Brunei where the petitioner and her son was dropped by her father at a later point of time. After some time, due to the life threat at the hands of the respondent, she returned to



Chennai with the help of her father. In such circumstances, it is difficult for the petitioner to travel from Chennai to Tiruchy for attending the Court hearing in IDOP.No.50 of 2021. Hence, she seeks to transfer the case from the file of Family Court, Tiruchy, to the Family Court, Chennai.

4. The learned counsel appearing for the respondent would submit that the petitioner has deliberately omitted to state her marital status in the cause-title and she insisted the respondent to resign his job at Brunei and come over to Chennai. After reunion, she lived with the respondent in Brunei for nearly 5 weeks. This petition is only to harass the respondent. He further submitted that it is difficult for the respondent to leave his parents at Tiruchy and come to Chennai to take part in the proceedings. He further submitted that the respondent is ready to bear the expenses for her stay at Tiruchy in attending the Court hearing. Moreover, there is a life threat at the hands of the petitioner and her family members. In this circumstance, it is difficult for the respondent to travel from Tiruchy to Chennai to attend the Court hearings. Therefore, he strongly opposes to transfer the case. He further submitted that if this Court feels to transfer the case, the same may be transferred by giving liberty to file a petition by an Advocate seeking permission to appear before the court on behalf of the respondent and a direction may be issued to dispose the IDOP within the stipulated period.

5. This Court is satisfied with the reasons stated in the affidavit filed in support of the petition.

6. Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel for the petitioner, IDOP.No.50 of 2021 is withdrawn from the Family Court, Tiruchy and transferred to the file of the Family Court, Chennai, for disposal as per law. The learned Family Court Judge, Tiruchy, is directed to transmit the papers to the file of the Family Court, Chennai, forthwith. The learned Family Court Judge, Chennai, is directed to dispose of the proceedings in IDOP.No.50 of 2021 on merits and in accordance with law as expeditiously as possible.

7. The personal appearance of both parties before the 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.



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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gv

To:

1.The Family Court,
Tiruchy.

2. The Family Court,
Chennai.

+1cc to M/s.A.Arulmozhi, Advocate sr.37626

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srg 23/08/2021