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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Tr.C.M.P. No.229 of 2021
and
C.M.P. No.6384 of 2021

S.Catherin Sonia

...Petitioner

Versus

L.Benedict Vasanth

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw and transfer F.C.I.D.O.P.No.170 of 2020 which is pending on the file of the Family Court at Chengalpattu, Kancheepuram District to be tried before the Family Court, Salem.

For Petitioner : Mr. P.Saravanan

For Respondent : Mr. S.Madhusudhanan

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife to withdraw the proceedings in F.C.I.D.O.P.No.170 of 2020 pending on the file of the Family Court, Chengalpattu, Kancheepuram District and transfer the same to the Family Court, Salem.

2. The petitioner is the wife. The marriage between the petitioner and the respondent/husband was solemnized on 14.05.2015 at Chennai as per Christian rites and customs. Out of the wedlock, the petitioner gave birth to one female child now aged about four years. The respondent has filed a petition in F.C.I.D.O.P.No.170 of 2020 before the Family Court at Chengalpattu for Restitution of Conjugal Rights. It is the case of the petitioner that she is unemployed and living with her



parents with her four year female child. The petitioner further states that her child was affected by autism and it is very difficult for her to maintain her female child single handedly. Due to the abnormal physical and mental condition of her child, the petitioner states that it will be very inconvenient for her to travel from Salem to Chengalpattu. The petitioner also states that in view of her bad financial condition and the fact that she is residing with her aged parents at Salem, she can not afford the extra expenses for travelling from Salem to Chengalpattu for every hearing.

3. The learned counsel for the respondent has no serious objection for transferring the case in F.C.I.D.O.P.No.170 of 2020 pending from the file of Family Court, Chengalattu to the Family Court, Salem. However, the learned counsel submits that the respondent can be exempted from personal appearance before the Family Court, Salem in case of emergency and appropriate direction may be given in that regard.

4. This Court cannot give such a direction to dispense with the presence of the respondent/husband without knowing the reason for such accommodation. There cannot be a general direction. If the parties are unable to appear before the Family Court, Salem, it is always open to them to convince the Presiding Officer as to the reason for their absence on a particular day. The learned counsel counsel for the respondent then seeks indulgence of this court for early disposal of the proceedings.

5. Considering the submissions of the learned counsel appearing on either side, this Court is inclined to allow this petition with the following directions.

i) The proceedings in F.C.I.D.O.P.No.170 of 2020 pending on the file of the Family Court, Chengalpattu, Kancheepuram District, are hereby withdrawn and transferred to the Family Court, Salem.

(ii) The learned Additional District Judge, Family Court, Salem is directed to dispose of the proceedings as expeditiously as possible preferably within a period of three months from the date of receiving the records from the Family Court, Chengalpattu. In case the petitioner fails to appear for two or more consecutive hearings, the respondent will have an option to seek modification of this order or is at liberty to file a fresh transfer petition before this Court.



6. This Transfer Civil Miscellaneous Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rrg

Copy To:

1. The Family Court,
Chenglpattu, Kancheepuram.
2. The Additional District Judge,
The Family Court, Salem.

+1cc to Mr.P.Saravanan, Advocate, S.R.No.34524

Tr. C.M.P. No.229 of 2021

UM(CO)
RGA(17/08/2021)