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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

TR CMP No.252 of 2021 and

CMP No.6899 of 2021

S.Dhivya Bharathi ...Petitioner/Respondent
Vs

S.Mahesh Kumar ... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleased to withdraw and transfer HMOP No.911 of 2020 on the file of the Principal Family Court, Coimbatore to the file of the Sub Court, Tambaram.

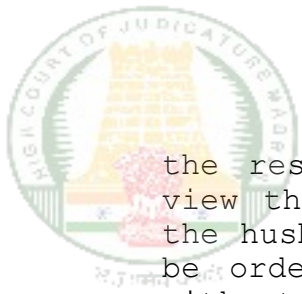
For Petitioner : Mr.J.Saravana vel

For Respondent : Mr.N.Somasundar

O R D E R

This Transfer Civil Miscellaneous petition is preferred by the wife to withdraw and transfer HMOP No.911 of 2020 on the file of the Principal Family Court, Coimbatore to the Sub Court, Tambaram on the ground of inconvenience.

2. It is submitted that the marriage between the petitioner and the respondent was solemnized at Chrompet, Chennai on 10.02.2019 and no child was born out of the said Wedlock. The respondent/husband filed HMOP No.911 of 2020 on the file of the Principal Family Court, Coimbatore on the ground of cruelty. It is further submitted that the petitioner is staying with her parents in Chennai and that it is not convenient for her to attend the case and to travel long distance without support of a male member. Therefore, the petitioner comes forward with the present Transfer CMP on the ground of inconvenience and the respondent has no special reason to insist on the trial of the proceedings at Coimbatore which is far away from the place of residence of the petitioner. Though the counsels have exchanged



the respective cases pleaded on merits, this Court is of the view that the convenience of the wife in the petition filed by the husband is a relevant factor. However, the transfer can not be ordered as a matter of right at the instance of the wife without considering the inconvenience that would be caused to the husband in every case.

3. In the present case, the learned counsel for the respondent submitted that the respondent is prepared to bare the expenses of the wife if she agreed to face the trial at Coimbatore. It is stated that the respondent is doing hardware business along with his father in Coimbatore. It is also admitted that the respondent is not spending any money towards maintenance. In such circumstances, the case of the petitioner that she will be put to much hardship if she attends the case in Coimbatore as it is difficult for her to travel without assistance of a male member to attend the hearing, cannot be neglected and hence the convenience of the petitioner is primarily considered. The distance between Coimbatore and Chennai is more than 450 km and therefore, the case can be tried in the place which is in middle and convenient to both sides provided the husband takes care of the expenditures that may be incurred by the wife for her travel and stay. Suggestion of one of the counsel to transfer the proceedings to Trichy appears to be reasonable and therefore this Court disposes of the present Transfer Civil Miscellaneous Petition with the following directions:

i. The petition in HMOP No.911 of 2020, now pending on the file of the Principal Family Court, Coimbatore is withdrawn and transferred to the Family Court, Trichy;

ii. The respondent/husband shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the petitioner for every hearing to enable the wife to attend the case before the Family Court at Trichy along with her father or mother or any elders of her choice. The said amount shall be paid by way of a Demand Draft drawn on any of the Nationalized Banks payable in favour of the petitioner;

iii. In case the respondent / husband fails to pay the said amount towards expenses for the petitioner to attend the hearing, the petitioner will have an option to seek for transfer of proceedings to Chennai;



iv. In case the petitioner or the respondent fails to appear consecutively for two hearings, it will enable the other spouse to seek transfer of the proceedings to his/her convenience as the case may be.

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Consequently, connected miscellaneous petition is closed.
No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Principal Family Court, Coimbatore.
2. The Family Court at Trichy.
3. The Sub Court, Tambaram

+1CC to Mr.J.Saravanavel, Sr.No.28991
+1CC to Mr.N.Somasundar, Sr.No.29161

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BS (CO)
K.RK. (22.07.2021)