



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.223 of 2021

and C.M.P. No.6268 of 2021
(Through Video Conference)

Gayathri

.. Petitioner

Vs.

Nirmal Kumar

.. Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw and transfer the O.P. No.1404 of 2020 pending on the file of the IV Additional Family Court Judge, at Chennai and transfer the same to the Court of the Subordinate Judge, Mayiladuthurai.

For Petitioner : Mrs.Alamelu Mangai

For Respondent : Mr.B.Devakumar

O R D E R

When the matter is called today(26.07.2021), the learned counsel appearing for the respondent is not present. He also did not appear when the matter was called on 01.07.2021 and subsequently on 15.07.2021. Having regard to the attitude and conduct of the respondent's counsel, this Court has no hesitation to dispose of the matter on merits.

2. The Petitioner is the Wife. The marriage between the Petitioner and the Respondent was solemnized on 02.05.2018, according to the Hindu Customs and Rites. It is admitted that due to difference of opinion that arose between the Petitioner and the Respondent, they are not living together. The Petitioner filed M.C.No.13 of 2021 before the Judicial Magistrate, Mayiladuthurai. She also filed a petition for Restitution of Conjugal Rights in H.M.O.P.No.43 of 2021, which is now pending before the Sub Court, Mayiladuthurai. The Respondent/ Husband has filed a petition in O.P.No.1404 of 2020 for dissolution of marriage, before the IV Additional Family Court at Chennai.

3. The grievance of the Petitioner is that she is unable to travel the long distance from Mayiladuthurai to Chennai to



attend the hearings. Since the petitioner's petition for Restitution of Conjugal Rights is also pending before the Sub Court, Mayiladuthurai, it will be convenient for the parties to have joint trial of H.M.O.P.No.43 of 2021 and O.P.No.1404 of 2020, which is pending before the IV Additional Family Court at Chennai.

4. The Wife has filed this petition for transfer. It is not in dispute that the distance between Mayiladuthurai and Chennai is more than 280 kms. The Petitioner being the Wife, her convenience will have some relevance when this Court considers the matters regarding transfer of proceedings. The petitions filed by the Petitioner-Wife and the Respondent-Husband are to be tried together as there are common issues. Any decision in any one of the matters will affect the decision in the other case too and therefore, to avoid conflicting decisions, it is better to have both the cases tried by the same Court.

5. Hence, not only in terms of the convenience of the Petitioner seeking for transfer, but also by considering the mutual interest, this Court is of the view that the petition for transfer can be allowed. Accordingly, the Transfer Civil Miscellaneous Petition stands Allowed and the proceedings in O.P. 1404 of 2020 pending on the file of IV Additional Family Court, Chennai are hereby withdrawn and transferred to the Sub Court, Mayiladuthurai, to be tried along with H.M.O.P.No.43 of 2021.

6. The learned Subordinate Judge, Mayiladuthurai is directed to dispose of both the proceedings as expeditiously as possible, preferably within a period of four (04) months from the date of receipt of the records. The parties are are directed to cooperate for early disposal of the petitions. In case, the Petitioner-Wife fails to appear for two or more consecutive hearings, the Respondent-Husband will have an option to seek for re-transfer. No costs. Consequently, connected C.M.P.No.6268 of 2021 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1) The Subordinate Judge,
Sub Court,
Mayiladuthurai.

2) IV Additional Family Court Judge,
Chennai.

Tr.C.M.P. No.223 of 2021

UM (CO)
B.VC (18/08/2021)