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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

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

TR CMP No.322 of 2021 and
CMP No.7716 of 2021

Phoebe Shekinah

...Petitioner/Respondent

Vs

Alwin Albert

...Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleased to transfer the F.C.I.D.O.P.No. 22 of 2021 on the file of the Family Court, Chengalpattu pending before it for trial and disposal to any Courts at Tuticorin Competent to try and dispose of the same.

For Petitioner : Mr.K.Sukumaran
For Respondent : Mr.R.T.Vijaya Raghavan

O R D E R

This Transfer Civil Miscellaneous petition is preferred by the wife to withdraw and transfer the proceedings in I.D.O.P.No.22 of 2021 on the file of the Family Court, Chengalpattu to Family Court, Tuticorin.

2. It is submitted that the marriage between the petitioner and the respondent was solemnized on 09.09.2019 and a petition came to be filed by the husband in IDOP No.22 of 2021 on the file of the Family Court, Chengalpattu for the relief of divorce on the ground of cruelty and desertion. It is the case of the petitioner that she is residing about 600 km away from Chengalpattu and that being a woman, she is unable to travel from Tuticorin to Chengalpattu to attend the hearings at Family Court, Chengalpattu. It is also the case of the petitioner that the petitioner has no other support except her aged father who is a priest in a Church in Tuticorin. The petitioner further apprehends that it is very difficult for anyone to travel around 1200 kms up and down for every hearing for the purpose of contesting the application filed by the respondent/husband against her before the Family Court, Chengalpattu.



3. In the said circumstance, the learned counsel appearing for the respondent also fairly agrees for transfer of proceedings to a mid place. It is also contended by the counsel appearing for the respondent that the respondent was threatened by the petitioner and her relatives and he has a proof of recordings in his cellphone. In a petition filed by the respondent for divorce, the convenience of the wife is also a relevant factor and the wife should be given a fair opportunity to defend / contest the case against her.

4. It is in this connection, the learned counsel for the petitioner submitted that the petitioner/wife has filed a petition in IDOP NO.76 of 2021 on the file of the II Additional District Court, Tuticorin for restitution of conjugal rights and the same may be directed to be transferred and to try along with IDOP No.22 of 2021 which is filed by the husband for divorce.

5. Considering the submissions made by both the counsel, this Court is inclined to dispose of the Transfer Civil Miscellaneous Petition with the following direction:

- i. The proceedings in IDOP No.22 of 2021 on the file of the Family Court, Chengalpattu and IDOP No.76 of 2021 on the file of the II Additional District Court, Tuticorin are hereby withdrawn and transferred to the Family Court, Madurai;
- ii. The Family Court, Madurai is directed to expedite and dispose of the Original Petitions jointly, within a period of six months from the date of records received, pursuant to the orders of this Court.
- iii. In case, the wife fails to attend the hearing consecutively for two hearings, the respondent / husband will have an option to seek re-transfer or to get appropriate orders from this Court.

Consequently, connected miscellaneous petition is closed.
No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Judge,
The Family Court, Chengalpattu.

2. The II Additional District Judge, Tuticorin.

3. The Judge,
The Family Court, Madurai.

+1 CC to Mr. K. Sukumaran, Advocate, Sr 30588.

+1 CC to Mr. T. Vijaya Raghavan, Advocate, Sr. 30894.

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AJS (CO)
LS(02/08/2021)