

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.262 of 2021  
and  
C.M.P. No.6997 of 2021

S.Karumarilakshmi

...Petitioner

Vs.

K.S.Sivaram

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw and transfer the pending case in H.M.O.P.No.87 of 2020 on the file of the III Additional Sub Court, Madurai to VI Additional Family Court, Chennai may be tried in M.C.No.116 of 2020.

For Petitioner : Mr. S.Gopinathan

For Respondent : No appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife to withdraw the proceedings in H.M.O.P.No.87 of 2020 pending on the file of the III Additional Sub Court, Madurai and transfer the same to the VI Additional Family Court, Chennai.

2. The petitioner is the wife. The marriage between the petitioner and the respondent/husband was solemnized on 03.12.2008 at Cholavandhan. Out of the wedlock, the petitioner gave birth to a female child on 06.10.2009. The case of the petitioner is that she got employment in UPS Company, namely, Novateur Electrical & Digital Systems Private Limited. It is the case of the petitioner that she was physically weak and she was forced to have the second child and that her health condition deteriorated to the worst level. The petitioner further states that due to her poor health condition, it will be very inconvenient for her to travel from Chennai to Madurai to attend the matrimonial proceedings. Now, the petitioner is living with her two children at her parents house. Therefore,

only on the ground of inconvenience to travel to Madurai to attend the case, she filed the petition for transfer.

3. Though the respondent/husband has been served notice, he has failed to appear before this Court and has not chosen to file a counter denying the allegations made in the affidavit filed in support of this petition.

4. It is the case of the petitioner that the respondent deserted her and settled at Madurai. Since the petitioner is residing with her parents in Chennai, she states that it would be inconvenient to travel to Madurai for every hearing and it would also deny the fair opportunity to defend the matrimonial case. The petitioner also filed a petition in M.C.No.116 of 2020 before the VI Additional Family Court at Chennai for maintenance under Section 125 of CRPC. Having regard to the facts narrated in the the petition seeking transfer and the fact that the respondent has not chosen to appear despite notice, this Court is of the view that the respondent has no defence in this petition.

5. In a petition filed by the husband for Restitution of Conjugal Rights, the convenience of wife should be considered. Having regard to the facts narrated in the affidavit filed in support of this petition and the fact that the petitioner is living with her two children in her parents house, this Court is fully convinced that the petitioner should not be put to much inconvenience by travelling such a long distance. Since the respondent has not chosen to deny the allegations, this Court is inclined to allow this petition. Accordingly, the proceedings in H.M.O.P. No.87 of 2020 pending on the file of the III Additional Sub Court, Madurai are hereby withdrawn and transferred to VI Additional Family Court at Chennai. In case the petitioner/wife fails to appear for two or more consecutive hearings, the respondent will have an option to seek modification of this order or will be 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.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rrg

Copy To:

- 1.The III Additional Sub Court,  
Madurai
- 2.The VI Additional Family Court,  
Chennai.

+1cc to Mr.S.Gopinathan, Advocate, S.R.No.34434

Tr. C.M.P. No.262 of 2021

KV(CO)  
RGA(/07/2021)