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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

Tr.C.M.P.No.290 of 2021
and
C.M.P.No.7379 of 2021

[Through video conferencing]

V.Subathirai

... Petitioner

Vs.

B.Chandru

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the unnumbered petition in H.M.O.P.No. of 2021 along with I.A No.1 of 2021 on the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Arani to be tried along with HMOP No.37 of 2021.

For Petitioner : Mr.P.Satheesh Kumar

For Respondent : Mr.B.Vijaya Kumar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the unnumbered petition in H.M.O.P.No. of 2021 along with I.A No.1 of 2021, on the file of the Family Court, Salem and transfer the same to the file of the the Sub Court, Arani to be tried along with HMOP No.37 of 2021.

2.The respondent/husband has filed unnumbered H.M.O.P.No. of 2021 before the Family Court, Salem for divorce. The petitioner/wife has filed HMOP No.37 of 2021 before the Sub Court, Arani for restitution of conjugal rights.

3.The learned counsel for the petitioner/wife submitted that the petitioner is suffering from cervical spondylosis. The distance between Arani and Salem is around 190 Kms. He would submit that since the petitioner is being a lady she is unable to travel from Arani to Salem for attending the Court on every



hearing in unnumbered H.M.O.P.No. of 2021 along with I.A No.1 of 2021, on the file of the Family Court at Salem. Therefore, she seeks to transfer the case in unnumbered H.M.O.P.No. of 2021 along with I.A No.1 of 2021 from the file of the Family Court, Salem to the file of Sub Court, Arani and to be tried along with HMOP No.37 of 2021.

4.The learned counsel appearing for the respondent has strongly opposed for transferring the case by filing a counter affidavit.

5.Heard the learned counsel on either side and perused the materials available on record.

6.This Court is satisfied with the reasons stated in the affidavit filed in support of this petition. Further, since two cases are pending from two different Courts i.e., the wife filed a petition for restitution of conjugal rights and the husband filed an application for divorce, to avoid multiplicity of proceedings and conflicting judgments, both the cases have to be tried before a single Judge.

7. Considering the facts and circumstances of the case and considering the submission made by the learned counsel on either side, unnumbered H.M.O.P.No. of 2021 along with I.A No.1 of 2021, is withdrawn from the file of the Family Court, Salem and transferred to the file of the Sub Court, Arani to be tried along with H.M.O.P No.37 of 2021 for disposal as per law. The learned Family Court Judge, Salem, is directed to transmit the papers to the Sub Judge, Arani, forthwith. The learned Sub Judge, Arani is directed to dispose of the unnumbered H.M.O.P.No. of 2021 along with H.M.O.P No.37 of 2021 on merits and in accordance with law as expeditiously as possible.

8.In fine, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



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To:

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1. The Family Court,
Salem.
2. The Sub Court,
Arani

+1cc to Mr.P.Satheesh Kumar, Advocate Sr.44435
+1cc to Mr.B.Vijayakumar, Advocate Sr.45027

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srg 12/10/2021