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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Tr.CMP.No.274/2021 & CMP.No.7141/2021

[Video Conferencing]

V.Suryakala

.. Petitioner/Respondent

Vs

A.Senthilkumar

.. Respondent/Petitioner

Prayer:- Petition filed under Section 24 of the Code of Civil Procedure, to withdraw HMOP No37/2021 before the Family Court, Tiruppur and transfer the same to the Family Court, Salem to try along with HMOP No.44/2021.

For Petitioner : Mr.N.Manokaran

Respondent : Notice returned unclaimed

ORDER

1. This petition has been filed by the petitioner/wife seeking transfer of the proceedings on the ground of convenience.
2. When the matter came up for hearing on 19.04.2021, this Court directed issuance of notice to the respondent through Court as well as privately returnable in three weeks. It is seen from the records that the Court notice has been returned with an endorsement ''addressee not claimed''. The learned counsel for the petitioner also filed an affidavit of proof of service from which it is seen that the notice sent privately, was also returned with an endorsement ''addressee not claimed. Returned to the Sender.'' Since notice was refused by the respondent, it is deemed that he is not interested in pursuing the matter and therefore, this Court, proceeds to dispose of the case on merits.
3. The case of the petitioner is that the marriage between the respondent and her was solemnised on 15.05.2013 and due to misunderstanding, the spouses got separated. The



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respondent/husband filed HMOP No.37/2021 seeking dissolution of marriage and the same is now pending on the file of the Family Court at Tiruppur. It is stated by the petitioner that the respondent is threatening her through his relatives and that she apprehends that she may be harmed at any time. It is her further case that she is having a female child aged about 5 years and is now residing with her aged parents and she finds it extremely difficult to travel from Salem to Tiruppur to attend the hearings. Hence, she prays for transfer of the proceedings as she finds that she will get a fair opportunity to defend the case filed by the respondent/husband.

4. In a petition filed by the husband for divorce, convenience of the wife will always be relevant. Already the petitioner has filed a petition for restitution of conjugal rights and it will be in the interest of both to have joint trial.
5. Considering the fact that the petitioner/wife has got no family members to support or accompany her for every hearing to Tiruppur and that it would be difficult for her to travel a long distance to attend the court proceedings, this Court, in the interest of justice, is of the considered view that the proceedings pending on the file of the Family Court, Tiruppur, can be transferred and tried along with the proceedings pending on the file of the Family Court, Salem.
6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the proceedings in HMOP No.37/2021 filed by the respondent/husband seeking dissolution of marriage, pending on the file of the Family Court at Tiruppur, are withdrawn and transferred to the file of the Family Court at Salem, to be tried along with HMOP No.44/2021 filed by the petitioner for restitution of conjugal rights. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

// True Copy//

Sub Assistant Registrar

AP



To

1. The Judge
Family Court
Tiruppur.

2. The Judge
Family Court
Salem.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.31676

Tr.CMP.No.274/2021

SV-I (CO)
SU (04/08/2021)