



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Tr.C.M.P. No.299 of 2021
and C.M.P. No.7438 of 2021

Santhi

..Petitioner/Respondent

Vs

M.Gunasekaran

..Respondent/Petitioner

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the OP. No.2108 of 2020 pending on the file of the Family Court, Chennai and transfer the same to the file of Sub Court, at Alandur to try along with HMOP No.34 of 2021.

For Petitioner : Mr.M.Thangadurai

For Respondent : M/s.Inthu Karunakaran

O R D E R

This petition is filed by the petitioner wife seeking to withdraw the proceedings in OP No.2108 of 2020 from the file of Principal Judge Family Court, Chennai and transfer the same to Sub Court, Alandur to try along with HMOP No.34 of 2021 filed by the petitioner wife.

2.The marriage between the petitioner and the respondent was solemnized on 01.09.2013 in Alwarthirunagar, Chennai. Though the petitioner and respondent were living together till February 2020, it is stated that the she was forced and driven out from the matrimonial home. The case of the petitioner is that her father died long back and her mother also died recently. Hence, it is also the case of the petitioner that there is no one in her family to accompany her. The petitioner has filed the petition before the Sub Court, Alandur in HMOP No.34 of 2021 for restitution of conjugal rights. The respondent husband has earlier filed the petition in OP.No.2108 of 2020 for divorce on the ground of mental cruelty. It is the case of the petitioner that her sister is also married and that she is alone suffering without support from anyone in her family.



3.The convenience of wife will also be a relevant fact or to be considered in a divorce proceedings filed by the husband. Having regard to the facts narrated in the affidavit filed in support of this petition, this Court is of the view that the proceedings in OP No.2108 of 2020 pending on the file of the Principal Judge Family Court, Chennai and HMOP No.34 of 2021 pending before the Sub Court, Alandur should be tried together to avoid conflicting decisions. While, coming to the place of hearings, the convenience of the wife will be preferred than the convenience of the respondent husband. Having regard to the circumstance indicated in the affidavit filed in support of this petition, this Court is of the view that it will be fair, if the proceedings are tried by the Sub Court, Alandur where HMOP No.34 of 2021 is pending.

4.Accordingly, this transfer civil miscellaneous petition is allowed and the proceedings in OP No.2108 of 2020 pending on the file of the Principal Judge, Family Court, Chennai, are hereby withdrawn and transferred to the Sub Court, Alandur to be tried along with HMOP No.34 of 2021. The learned Subordinate Judge, Alandur is directed to dispose of the matrimonial petitions as expeditiously as possible, preferably within a period of four months from the date of receipt of records. In case the petitioner wife fails to appear continuously for two or more consecutive hearings, the respondent will have an option to seek modification or re-transfer of the case. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Principal Judge Family Court, Chennai.
2. The Sub Court, at Alandur.

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GJ(CO)
RGA(16/08/2021)