



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.295 of 2021
and
C.M.P. No.7403 of 2021

Iswarya

...Petitioner

Versus

Viay

S/o Ganesan

(rep. by his power Agent Mr.Ganesan)

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P. No.48 of 2020 pending on the file of the Sub Court, Kallakurichi and transfer the same to the Principal Family Court, Chennai.

For Petitioner : Mr.A.Kripakaran

For Respondent : Mr.P.Valliappan

O R D E R

This petition is filed to withdraw H.M.O.P. No.48 of 2020 pending on the file of the Sub Court, Kallakurichi and transfer the same to the Principal Family Court, Chennai.

2. The petitioner is the wife. The marriage between the petitioner and respondent husband was solemnized on 02.06.2014. The petitioner wife is blessed with a male child who is aged about five years. The respondent husband filed a petitioner for divorce in H.M.O.P. No.49 of 2020 before the Sub Court, Kallakurichi. It is the case of the petitioner that she is residing at Tambaram and that she is working in IT Sector at Chennai. Since the petitioner is living with her five year old child and unable to travel long distance, she seeks transfer of case purely on the ground of inconvenience.

3. Learned counsel appearing for the respondent however states that the respondent's mother is bed ridden and that she is unable to move around. Since the respondent is the only person to look after his mother, learned counsel appearing for



the respondent submits that the transfer of proceedings from Kallakurichi to Chennai will be difficult to the respondent.

4. In a divorce petition filed by the husband, the convenience of wife is relevant as settled by this Court and the Hon'ble Supreme Court. Though the petitioner and the respondent have different versions to put forth their case on the ground of convenience, this Court is able to see that the respondent can manage by appointing somebody to look after his mother since it may not be possible for him to physically look after his mother. Considering the fact that the wife is living alone with her five year old child, this Court is of the view that the place which is better for the parties can be chosen. Accordingly, the transfer of proceedings to Sub Court, Chengalpattu, will be in the interest of justice and appropriate.

5. Hence, the proceedings in H.M.O.P. No.48 of 2020 pending on the file of the Sub Court, Kallakurichi, are hereby withdrawn and transferred to Sub Court, Chengalpattu. The learned Subordinate Judge, Chengalpattu is directed to dispose of the matrimonial petition 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 attend the hearing for two or more consecutive hearings, it is open to the respondent to seek modification of this order or re-transfer.

6. Learned counsel appearing for the respondent states that the respondent has appointed his father as Power of Attorney agent to conduct his case. Since the respondent was in abroad, he would have appointed his father as Power of Attorney agent to represent him in matrimonial proceedings to the extent possible. Now the respondent has come down to India. Hence, the Power of Attorney agent may not be required at present. If a petition or memo is filed appropriately before the lower Court, the proceedings can be continued by respondent.

7. Accordingly, the transfer civil miscellaneous petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

bkn



To

1. The Sub Court, Kallakurichi.

2. The Sub Court, Chengalpattu.

+1 CC to Mr.P.Valliappan, Advocate, Sr 35908.

Tr.C.M.P. No.295 of 2021

AK-II (CO)
LS (11/08/2021)