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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.307 of 2021
and
C.M.P. No.7516 of 2021

R.Sharmila Joseph

.. Petitioner/Respondent

Versus

M.Alexander

.. Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the case I.D.O.P. No.202 of 2021 from the file of the Family Court, Madurai, and to transfer the same to the I Additional Family Court, Chennai, to be tried along with O.P. No.270 of 2020 which has been already filed by the petitioner.

For Petitioner : Mr. J.Thilagaraj

For Respondent : No appearance

O R D E R

Despite notice having been served on respondent as early as on 15.05.2021, no one entered appearance on behalf of the respondent. Since sufficient time has already been given to the respondent, this Court proceeds further to dispose of this petition on the basis of averments made in this petition. The respondent is set ex-parte.

2. This transfer petition is filed to withdraw the case in I.D.O.P. No.202 of 2021 from the Family Court, Madurai and to transfer the same to the I Additional Family Court, Chennai, to be tried along with O.P. No.270 of 2020. The petitioner is the wife. The marriage between the petitioner and the respondent husband was solemnized on 23.05.2011. The petitioner gave birth to two female children in the years 2012 and 2019. The petitioner also filed a petition for restitution of conjugal rights in O.P. No.270 of 2020 before the I Additional Family Court, Chennai. The petitioner also filed a petition for maintenance in M.C. No.52 of 2021 before the I Additional Family



Court, Chennai. The respondent thereafter filed a petition for divorce in I.D.O.P. No.202 of 2021 before the Family Court, Madurai, on the ground of desertion. Stating that the husband has made false allegations and that the petition filed by the husband for divorce is nothing but an act of disappointed husband to take vengeance against the petitioner, the present petition is filed for transfer merely on the ground of convenience of wife and children.

3. Since the respondent has not appeared before this Court to respond to the allegations and the facts stated by the petitioner in the affidavit, this Court has no other alternative but to presume that the husband has no case in defence or has nothing to contradict the allegations made in the affidavit filed in support of this petition. The petitioner has to look after her children. One of the children is aged 19 months. In a petition filed by the husband for divorce, the convenience of wife is relevant. The petitioner wife should not be put to much inconvenience by travelling such a long distance. Moreover, the husband has to attend hearings in O.P. No.270 of 2020. It will be in the interest of both parties to dispose of both cases together. Hence this Court is inclined to allow this petition. Accordingly, the proceedings in I.D.O.P. No.202 of 2021 on the file of the Family Court, Madurai, are hereby withdrawn and transferred to the I Additional Family Court, Chennai, to be tried along with O.P. No.270 of 2020, pending on the same file.

4. This Transfer Civil Miscellaneous Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bkn
To

1. The I Additional Family Court, Chennai.

2. The Family Court, Madurai.

+2ccs to Mr.Thilagaraj, Advocate, S.R.No.30058

Tr. C.M.P. No.307 of 2021

KK(CO)
PM(29/07/2021)