



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.10.2021

Pronounced on : 22.11.2021

CORAM:

THE HONOURABLE MRS. JUSTICE S. KANNAMMAL

Tr.C.M.P.No.289 of 2021

and

C.M.P.No.7315 of 2021

A.Sangamithrai

... Petitioner

Versus

T.P.Chockalingam

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.779 of 2020 on the file of the Principal Family Court, Coimbatore and transfer the same to the Sub-ordinate Court, Devakottai, Sivagangai District.

For Petitioner : Mr.V.Chandrakanthan

For Respondent : Mr. V.Viswanath

ORDER

[The Case has been heard through video conference]

The present Transfer Civil Miscellaneous Petition is filed seeking to withdraw the H.M.O.P.No.779 of 2020 on the file of the Principal Family Court, Coimbatore and transfer the same to the Sub-ordinate Court, Devakottai, Sivagangai District.

2. Heard the learned counsel for the petitioner and respondent and perused the materials available on record.

3. There is no dispute about the marriage between the petitioner and the respondent and a girl child born out of their wedlock. Admittedly, the respondent has filed H.M.O.P.No.779 of 2020 before the Principal Family Court, Coimbatore, for dissolution of marriage. Further, admittedly the petitioner



herein has filed D.V.O.P.No.13 of 2020 before the Judicial Magistrate Court, Karaikudi District and also an F.I.R. in Crime No.5 of 2020 has been registered against the respondent, his parents and relatives. It is also an admitted fact that the minor girl child is with the custody of the respondent. The allegations made against each other by the parties need not be discussed in this petition and it is suffice to consider as to whether this petition seeking for withdrawal of H.M.O.P.No.779 of 2020 on the file of the Principal Family Court, Coimbatore is liable to be transferred to Sub-Court, Devakottai, Sivagangai District.

4. The learned counsel for the petitioner would submit that it is very difficult for the petitioner to travel all along from Karaikudi to Coimbatore and to take up the proceedings before the Family Court and hence sought for transferring the case from the Principal Family Court, Coimbatore to the Sub-ordinate Court, Devakottai, Sivagangai District.

5. The learned counsel appearing for the respondent would submit that after marriage, matrimonial disputes arose between them and the petitioner lodged a complaint with false allegations before the Inspector of Police, All Women Police Station, Karaikudi against the respondent and his parents which was registered as Crime No.5 of 2020. He would also submit that even before the Inspector of Police and concerned learned Magistrate, the minor child has clearly explained that the petitioner used to beat her and behaved in rude manner and refused to go along with the petitioner. Taking note of this, the learned Magistrate also refused to give interim custody of the minor child to the petitioner. The learned counsel for the respondent would submit that since the minor girl is with the respondent and living in Coimbatore, it is difficult to travel to Devakottai to take up the proceedings and sought for dismissal of this petition.

6. Heard the learned counsel on either side and perused the materials placed on record.

7. The learned counsel for the respondent would submit that the respondent is looking after the minor child and also his parents and he is not in a position to travel from Coimbatore to Devakottai to take up the proceedings filed by the petitioner in D.V.O.P.No.13 of 2020 and in such circumstances, he sought for dismissal of the present petition. But, considering the circumstances, where the mother of the respondent is there to take care of the minor child, this Court feels it appropriate to transfer the H.M.O.P.No.779 of 2020 on the file of the Principal



Family Court, Coimbatore and transfer the same to the Sub-ordinate Court, Devakottai, Sivagangai District. However, the Sub-Court, Devakottai is directed not to insist upon the personal appearance of the respondent except during the enquiry stage or any day, when his personal appearance is immensely required.

8. Accordingly, with the above observation, this Transfer Civil Miscellaneous Petition is disposed of. Consequently, HMOP No.779 of 2020 is ordered to be withdrawn from the file of the Principal Family Court, Coimbatore and it stands transferred to the file of the Sub-ordinate Court, Devakottai, Sivagangai District. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

gbi

To:

1.The Principal Family Judge,
Coimbatore.

2.The Sub-ordinate Judge,
Devakottai,
Sivagangai District.

+lcc to Mr.V.Chandrakanthan, Advocate SR.No.60209
+lcc to Mr.V.Vishwanathan, Advocate SR.No.60260

Tr.C.M.P.No.289 of 2021

VBM(CO)
CB(01/12/2021)