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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

TR CMP No.300 of 2021

B.Nirmala

..Petitioner

Vs

T.Madhu

...Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleased to withdraw HMOP No.73 of 2021 pending on the file of the Family Court, Erode and transfer the same to the file of the Sub Court, Tambaram to be tried along with HMOP SR....of 2021 for divorce, enquiry and disposal.

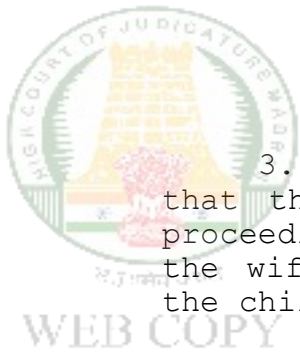
For Petitioner : Mr.S.Xavier Felix

For Respondent : Mr.V.Kaushik Narayanan

O R D E R

This Transfer Civil Miscellaneous petition is preferred by the wife to withdraw HMOP No.73 of 2021 pending on the file of the Family Court, Erode and to transfer the same to the Sub Court, Tambaram to be tried along with the petition filed by the petitioner for divorce.

2. The petitioner seeks transfer mainly on the ground of her convenience. It is stated that due to bifurcation of the Districts, the petition filed by the petitioner for divorce has now been transferred to the Sub Court, Chengalpet and numbered as H.M.O.P.No.525 of 2021. The petitioner and the respondent were living together in US for a short period and they were blessed with a male child who is tender in age. The petitioner states that the distance between Chennai and Erode is more than 400 kms. The petitioner happens to be a resident of Chennai. It is her case that she is unable to travel more than 400 kms to attend the hearings in Erode. It is stated that the petitioner's parents are aged and that she has no one to support or accompany her to attend the case at Erode. Hence, she prays for transfer of proceedings in HMOP No.73 of 2021 on the file of Family Court, Erode to the Sub Court, Chengalpet to try along with HMOP No.525 of 2021.



3. The learned counsel for the respondent fairly conceded that the respondent has no serious objection to transfer the proceedings. However, the counsel for the respondent states that the wife may consider the request of the husband for visiting the child when he is in India.

4. Considering the convenience of the wife and the interest of husband, this Court is of the view that both the proceedings shall be tried by one Court preferably at Chengalpet. Therefore, this Court disposes of the present Transfer Civil Miscellaneous Petition with the following directions:

- i. The petition in HMOP No.73 of 2021, now pending on the file of the Family Court, Erode is withdrawn and transferred to the Sub Court, Chengalpet to be tried along with HMOP No.525 of 2021;
- ii. In case the petitioner/ wife fails to appear consecutively for two hearings, the respondent / husband will have an option to seek re-transfer of the case to his convenience;
- iii. The request of the husband to see the child during his visit in India may be considered by the wife and that the petitioner/wife shall give instruction to her counsel accordingly, so that, the respondent/husband may be able to visit his son without intervention of Court;
- iv. It is also open to the respondent to file a petition before the District Court concerned under Guardians and Wards Act, 1890 to get appropriate orders regarding temporary custody or visiting rights. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Family Court, Erode.
2. The Sub Court, Chengalpet.

+1cc to Mr.Xavier Felix, Advocate, S.R.No.30371

TR CMP No.300 of 2021

RLD(CO)
GN(03/08/2021)