



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.324 of 2021
and
C.M.P. No.7729 of 2021

Lydia ...Petitioner/Petitioner
Versus
Dhinakar Vasanth ...Respondent/Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the I.D.O.P. No.09 of 2020 pending on the file of the Principal District and Sessions Court, Vellore and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.S.Sashidhar Sivakumar
For Respondent : Mr.C.Sathish

O R D E R

This petition is filed to withdraw the proceedings in I.D.O.P. No.09 of 2020 pending on the file of the Principal District and Sessions Court, Vellore, and transfer the same to the Family Court, Coimbatore.

2. The petitioner is the wife. The marriage between the petitioner and respondent husband was solemnized on 07.07.2016. It is the case of the petitioner that the petitioner was treated with cruelty and abused by the respondent husband and that she was forced to leave the matrimonial home. At present, the petitioner is residing at Coimbatore along with her parents. The petitioner is blessed with a child born out of the wedlock. It is the case of the petitioner that the petition before the Principal District and Sessions Court, Vellore, is not maintainable as the Court in which the petition is pending has no territorial jurisdiction.

3. Learned counsel appearing for the petitioner states that the petitioner is residing at Coimbatore and that it will be very difficult for her to travel a long distance to defend the proceedings which are now pending before the Principal District and Sessions Court, Vellore. He further submits the petitioner seeks transfer mainly on the ground of convenience.



4. Learned counsel appearing for the respondent has made several submissions on merits of the averments made in the affidavit filed in support of this petition and has no serious objection if this Court takes a decision merely on the facts which are germane to the petition for transfer and not on the basis of allegations made by the wife.

5. Considering the fact that the petitioner wife is residing at Coimbatore with her minor child, and the averments in the affidavit with regard to her inconvenience if the proceedings are tried by the Court at Vellore, this Court is inclined to allow this petition having regard to the following facts:

The petitioner is unemployed and she is residing with her aged parents along with her four year child. The petitioner states that the parents of the petitioner are suffering from health issues and therefore it is very difficult to get their assistance or support on day to day basis if the petitioner has to travel a long distance from Coimbatore to Vellore. The petitioner's daughter has to be taken care of as taking her to the Court at Vellore may not be proper especially when there is a threat due to Covid-19 (3rd wave). The distance between Coimbatore and Vellore is too long and therefore the petitioner will be given a fair opportunity to defend the case filed by the husband only if it is transferred to a place nearer to the place where the petitioner resides.

6. Hence this transfer petition is allowed. No costs. Connected miscellaneous petition is closed. The proceedings in I.D.O.P. No.09 of 2020 pending on the file of Principal District and Sessions, Vellore are withdrawn and transferred to Family Court, Coimbatore. The learned Judge, Family Court, Coimbatore, is directed to dispose of the proceedings as expeditiously as possible preferably within a period of four months from the date of receipt of records. In case the wife fails to appear for two or more consecutive hearings, the respondent husband will have an option to seek modification of this order or to seek re-transfer.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal District and Sessions Judge, Vellore.



2. The Judge, Family Court, Coimbatore.

+1 CC to Mr.Sashidhar Sivakumar, Advocate, Sr 34528.

+1 CC to Mr.C.Sathish, Advocate, Sr 34784.

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NR (CO)
LS (23/08/2021)