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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Tr.C.M.P.No.323 of 2021

and

C.M.P.No.7718 of 2021

[Through video conferencing]

Sivasankari

... Petitioner/Wife

Versus

Kumar

rep by Power of Attorney/ Mother Iyyamal

... Respondent/Husband

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.108 of 2021 from the file of the Family Court, Puducherry and to transfer the same to the file of the Family Court, Krishnagiri.

For Petitioner : Mr. Jeremiah Gregory John

For Respondent : Mr. V. K. Vijaya Raghavan

ORDER

The present Transfer Civil Miscellaneous Petition is filed, seeking to withdraw the H.M.O.P.No.108 of 2021 from the file of the Family Court, Puducherry and to transfer the same to the file of the Family Court, Krishnagiri.

2.The respondent/husband has filed H.M.O.P.No.108 of 2021 before the Family Court, Puducherry, for divorce.

3.The learned counsel for the petitioner/wife submitted that the petitioner is residing with her aged parents at Krishnagiri District. Moreover, she is depending on her aged and sick parents and the petitioner being a lady, it is very difficult for her to travel from Krishnagiri to Puducherry for attending the Court on every hearing. Therefore, she seeks to transfer the case from Puducherry to Krishnagiri.



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4.The learned counsel for the respondent/husband has strongly opposed to the transfer of the case from the Family Court, Puducherry to the file of the Family Court, Krishnagiri.

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

6. In a decision made in TR.CMP(MD)No.108 of 2010, dated 03.03.2011, the Madurai Bench of Madras High Court, has observed as below:-

'18.It is true that section 19 of the Hindu Marriage Act, has been amended by insertion of proviso of (iii)(a) to section 19. Of Course, this amended section 19(iii)(a) gives special preference to the wife to file a petition or defending the case of the husband before the Court within whose jurisdiction she resides. The intention of the legislator is to safe-guard the interest and rights of the women, who are being subjected to harassment and cruelty. But this special preference conferred under section 19(iii)(a) of the Hindu Marriage Act shall not be used to wreck vengeance on the husband. There must be a justifiable cause to select the jurisdiction of the Court where she resides.'

7.In the present case, the petitioner/wife is residing with her parents at Krishnagiri District and she finds it very difficult to travel from Krishnagiri to Puducherry for attending the Court on every hearing. Hence, considering the above ruling and the submissions made by the learned counsel for the petitioner, this Court is inclined to transfer the case to the file of Family Court at Krishnagiri.

8.Accordingly, H.M.O.P.No.108 of 2021 is withdrawn from the file of the Family Court, Puducherry and transferred to the file of the Family Court, Krishnagiri, for disposal as per law. The Family Court, Puducherry, is directed to transmit the papers to the file of the Family Court, Krishnagiri within a period of six weeks from the date of receipt of a copy of this order. The learned Judge, Family Court, Krishnagiri is directed to dispose of the case in H.M.O.P.No.108 of 2021 on merits and in accordance with law as expeditiously as possible.



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9. In fine, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gbi

To:

1. The Judge,
The Family Court,
Puducherry.
2. The Judge,
The Family Court,
Krishnagiri.

+lcc to Mr.V.K.Vijayaragavan, Advocate Sr.50344

Tr.C.M.P.No.323 of 2021
and
C.M.P.No.7718 of 2021

rsi[co]
srg 26/10/2021