



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

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CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.338 of 2021
and C.M.P.No.7971 of 2021

S.Kavitha		.. Petitioner
	Vs.	
J.Gopi		.. Respondent

Prayer: This Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the case in O.P.No.267 of 2020, pending on the file of the VII Family Court, Chennai and transfer the same to the Subordinate Court, Arni.

For Petitioner	:	Mr.A.Vinupradha
For Respondent	:	Mr.D.Ajith Kumar

O R D E R

(The case has been heard through video conference)

The present Transfer Civil Miscellaneous Petition is filed to withdraw the O.P.No.267 of 2020 on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Arni for having joint trial along with H.M.O.P.No.28 of 2020 pending on the file of the Subordinate Court, Arni.

2. The petitioner/wife has filed H.M.O.P.No.28 of 2020 before the Sub Court, Arni for restitution of conjugal rights. The respondent/husband has filed O.P.No.267 of 2020 before the VII Additional Family Court, Chennai for divorce.

3. The learned counsel for the petitioner/wife submitted that the petitioner is residing at Arni and she finds it very difficult to travel 142 kms from Arni to Chennai for attending every hearing in O.P.No.267 of 2020 on the file of the VII Additional Family Court, Chennai.



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4. The learned counsel for the respondent/husband strongly opposed to transfer the case to Arni. However, he submitted that if the matter is referred to Mediation, there could be amicable settlement between the parties.

5. This Court considered the arguments made by the learned counsel on either side.

6. This Court is satisfied with the reasons stated in the affidavit filed in support of this petition. Further, since two cases are pending from two different Courts i.e., the wife filed a petition for restitution of conjugal rights and the husband filed an application for divorce, to avoid multiplicity of proceedings and conflicting judgments, both the cases have to be tried before a single Judge.

7. Considering the facts and circumstances of the case and considering the submission made by the learned counsel on either side, O.P.No.267 of 2020 is withdrawn from the file of the VII Additional Family Court, Chennai and transferred to the file of the Subordinate Court, Arni to be tried along with H.M.O.P.No.28 of 2020 for disposal as per law. The learned Judge, VII Additional Family Court, Chennai, is directed to transmit the papers to the Subordinate Court, Arni forthwith. The learned Subordinate Judge, Arni is directed to refer the matter to Mediation and on receiving the report of the Mediator is directed to dispose of O.P.No.267 of 2020 along with H.M.O.P.No.28 of 2020 on merits and in accordance with law as expeditiously as possible.

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

Sd/-
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

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To

1. The VII Judge, Additional Family Court, Chennai.
2. The Subordinate Judge, Arni.

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+1CC to M/s.A.Vinu Pradha, Advocate, SR.No. 39939

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SPD(CO)
B.VC (21/09/2021)