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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

TR.C.M.P.NO.365 OF 2021

AND

C.M.P.NOS.8537 & 8541 OF 2021

[Through video conferencing]

Afrheedha Fathima

... Petitioner/Defendant

-Vs-

U.B.Dhanish Raja

... Respondent/Plaintiff

PRAYER:-

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the above case in O.P.No.22 of 2021 from the file of the learned Family Judge, Coimbatore and transfer the same to the file of the learned Family Judge at Ootacamund, The Nilgiris to be tried along with the case in M.C.No.2 of 2021 filed by the petitioner herein which is pending on its file.

For Petitioner : Ms.D.Jagajothi
For Mr.T.Shanmugam

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the above case in O.S.No.22 of 2021 from the file of the learned Family Judge, Coimbatore and transfer the same to the file of the learned Family Judge at Ootacamund, The Nilgiris to be tried along with M.C.No.2 of 2021 filed by the petitioner herein which is pending on its file.



2. The respondent/husband has filed a suit in O.S.No.22 of 2021 before the Family Judge at Ootacamund, the Nilgiris for a declaration, declaring the marriage between the petitioner and the husband as per Muslim Law and also for consequential permanent injunction, restraining the petitioner and her relatives from claiming the respondent as husband. The said suit is now pending before the learned Family Judge at Coimbatore. The petitioner/wife has filed a petition in M.C.No.2 of 2021 before the Family Court at Ootacamund, the Nilgiris for maintenance.

3. The learned counsel for the petitioner/wife submitted that the petitioner is residing with her parents home at Ootacamund, the Nilgiris and she is taking care of them. The distance between Ootacamund to Coimbatore is around 85 Kms. Moreover, she has no source of income and she is facing serious physical and financial problem, she finds it difficult to travel alone from Ootacamund to Coimbatore for attending the Court on every hearings in O.S.No.22 of 2021. Therefore, on the ground of convenience, she seeks to transfer the case from the Family Court, Coimbatore to the Family Court, Ootacamund, the Nilgiris to be tried along with M.C.No.2 of 2012, pending on the file of the Family Court, Ootacamund, the Nilgiris.

4. There is no representation on behalf of the respondent either in person or his counsel.

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

6. This Court is having 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 maintenance and the husband filed a suit for declaration and permanent injunction, 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 for the petitioner, O.S.No.22 of 2021 is withdrawn from the file of the Family Court at Coimbatore and transferred to the file of the Family Court at Ootacamund, the Nilgiris to be tried along with M.C.No.2 of 2021 for disposal as per law. The learned Family Judge, Coimbatore, is directed to transmit the papers to the Family Court, Ootacamund forthwith. The learned Family Judge, Ootacamund is directed to dispose O.S.No.22 of 2021 along with M.C.No.2 of 2021 on merits and in accordance with law as expeditiously as possible.



8. In fine, this petition is allowed. No costs. Consequently, the connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssi

To

1. The Family Court,
Ootacamund.
2. The Family Court,
Coimbatore.

+1cc to Mr.T.Shanmugam, Advocate, S.R.No.42887

TR.C.M.P.NO.365 OF 2021 AND
C.M.P.NOS.8537 & 8541 OF 2021

VG-II(CO)
PBS/21/09/2021