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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

TR.C.M.P.NO.360 OF 2021 AND

CMP.NO.8393 OF 2021

[THROUGH VIDEO CONFERENCING]

V.Ramya

... Petitioner

Vs.

R.Kannan

... Respondent

PRAYER:

Transfer Civil Miscellaneous Petition is filed under Section 24 read with Section 151 of the Code of Civil Procedure, to withdraw and transfer the H.M.O.P.No.23 of 2020, on the file of the Sub-Court, Sankari, Salem District to be tried along with H.M.O.P.No.123 of 2020, on the file of the Family Court, Dindugul.

For Petitioner : Mr.K.Vasuvenkat

For Respondent : Mr.T.Padmanabhan

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the H.M.O.P.No.23 of 2020, on the file of the Sub-Court, Sankari, Salem District to be tried along with H.M.O.P.No.123 of 2020, on the file of the Family Court, Dindugul.

2.The respondent/husband has filed H.M.O.P.No.23 of 2020 before the Subordinate Judge, Sankari for divorce. The petitioner/wife has filed H.M.O.P.No.123 of 2020 before the Family Court, Dindigul for restitution of conjugal rights and also filed M.C.No.23 of 2020 before the Family Court, Dindigul for maintenance.



3.The learned counsel for the petitioner/wife submitted that the petitioner is residing with her parents home at Dindigul and she is having 5 years old child. The distance between Sankari and Dindigul is around 150 Kms. He would submit that she has no source of income and she is depending on her parents for her day to day expences and she is taking care of them and moreover, the petitioner is being a lady she was unable to travel from Sankari to Dindigul for attending the Court on every hearing in H.M.O.P.No.23 of 2020 on the file of the Subordinate Court at Sankari. Therefore she seeks to transfer the case in H.M.O.P.No.23 of 2020 from the file of the Subordinate Court at Sankari to the file of the Family Court, Dindigul tried along with H.M.O.P.No.123 of 2020 and M.C.No.23 of 2020 pending on the file of the Family Court at Dindigul.

4.The learned counsel appearing for the respondent submitted that the respondent is working in Salem and he is suffering from Stricture Uiretera and owing to his medical condition, his creatin and uric acid levels have become high and due to which, he cannot even stand for a long time and unable to travel long distances and due to his medical condition, he has strongly opposed for transferring the case. However, he submitted that if this Court feels to transfer the case, the same may be transferred to any centre place.

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

6.This Court is satisfied with the reasons stated in the affidavit filed in support of this petition. Further, since three cases are pending from two different Courts i.e., the wife filed a petition for restitution of conjugal rights and for maintenance 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, H.M.O.P.No.23 of 2020 is withdrawn from the file of the Subordinate Court, Sankari and transferred to the file of the Family Court, Dindigul to be tried along with H.M.O.P.No.123 of 2020 and M.C.No.23 of 2020 for disposal as per law. The learned Subordinate Judge, Sankari, is directed to transmit the papers to the Family Court, Dindigul forthwith. The learned Family Judge, Family Court, Dindigul is directed to dispose of H.M.O.P.No.23 of 2020 along with H.M.O.P.No.123 of 2020 and M.C.No.23 of 2020 on merits and in accordance with law as expeditiously as possible.



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

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Sub Judge, Sankari, Salem District.
2. The Judge, Family Court, Dindugul.

Tr.C.M.P.No.360 of 2021

LN (CO)
PM/16/09/2021