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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.388 of 2021
and
C.M.P. No.8999 of 2021

Mrs.Annie Vanitha

... Petitioner/Petitioner

Vs.

Michael Leo Valan @ M. Leo Valan

...Respondent/Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the original petition in I.D.O.P.No.293 of 2019 on the file of the District Court, Chengalpet and transfer the same to the Family Court, Madurai.

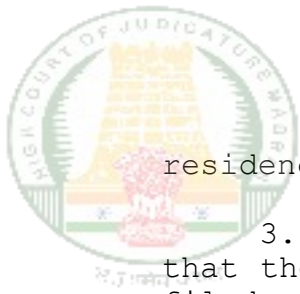
For Petitioner : Ms.A.Arul Mary
for M/s.Father Xavier Associates

For Respondent : Mr. A.K.Sriramulu

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife to withdraw the proceedings in I.D.O.P.No.293 of 2020 pending on the file of the District Court, Chengalpet and transfer the same to the Family Court, Madurai.

2. The petitioner is the wife. The marriage between the petitioner and the respondent/husband was solemnized on 05.09.1997 at Madurai. Out of the wedlock, the petitioner gave birth to a female child on 17.03.1999. The petitioner left the matrimonial home from January 2018 due to some health issues. It is admitted that the petitioner and the respondent got separated due to misunderstanding. It is the case of the petitioner that at present she is residing at Madurai in her parents house with her daughter. The petitioner has shown her place of residence as Chennai in all the proceedings, including this Transfer Civil Miscellaneous Petition filed by her before this Court. However it is explained that it was by mistake and that the place of



residence at present is Madurai.

3. The learned counsel appearing for the petitioner states that the petitioner is residing only in Madurai. The respondent filed a petition in I.D.O.P.No.293 of 2019 before the Family Court, Chengalpattu for divorce on the ground that the petitioner/wife is suffering from schizophrenia. The learned counsel further states that from Madurai to Chengalpattu the distance is about 450 Kms and therefore the petitioner is unable to travel such a long distance. The petitioner also states that she is unable to bear the expenses towards travel and accommodation for every hearing. Only due to her convenience, the petitioner has come forward with this petition.

4. Though the respondent denies the averments made in the affidavit filed in support of this petition, the learned counsel for the respondent fairly concedes that the proceedings can be transferred to Madurai, however with a direction to the concerned court to dispose of the matter as expeditiously as possible.

5. Considering the submissions of the learned counsel appearing on either side and the facts stated in the affidavit filed in support of this petition and the counter affidavit, this court is of the view that the transfer will be in interest of justice so as to give a fair opportunity to the petitioner/wife to defend the case filed by the respondent against her. Accordingly, the proceedings in I.D.O.P.No.293 of 2019 pending on the file of the Family Court, Chengalpattu are hereby withdrawn and transferred to the Family Court, Madurai. The learned District Judge, Family Court, Madurai is directed to dispose of the matrimonial proceedings in I.D.O.P.No.293 of 2019 within a period of three months from the date of receiving the case records. In case the petitioner/wife fails to appear for two or more consecutive hearings, the respondent will have an option to seek modification of this order or is at liberty to file a fresh transfer petition before this Court.

6. This Transfer Civil Miscellaneous Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy//

Sub Assistant Registrar

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To:

1. The District Court,
Chenglpattu.
2. The Judge,
The Family Court,
Madurai.

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+2ccs to M/S. Father Xavier Associates, Advocate, S.R.No.34417

Tr. C.M.P. No.388 of 2021

LN(CO)
SU(09/08/2021)