



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P.No.410 of 2021
and C.M.P.No.9797 of 2021

Rathika .. Petitioner/Respondent
Vs.

Goguldas .. Respondent/ Petitioner

Prayer: This Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw and transfer the case in H.M.O.P.No.399 of 2020 from the Family Court, Thiruvannamalai and to try along with M.O.P.No.172 of 2020 on the file of the Family Court, Puducherry.

For Petitioner : Mr.S.C.Vishwanath

For Respondent : No appearance

O R D E R

(The case has been heard through video conference)

The present Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.399 of 2020 on the file of the learned Judge, Family Court, Thiruvannamalai and transfer the same to the file of the learned Judge, Family Court, Puducherry for having joint trial along with M.O.P.No.172 of 2020 pending on the file of the Family Court, Puducherry.

2. The petitioner/wife has filed M.O.P.No.172 of 2020 before the Family Court, Puducherry for divorce. The respondent/husband has filed H.M.O.P.No.399 of 2020 before the Family Court, Thiruvannamalai for restitution of conjugal rights.

3. The learned counsel for the petitioner/wife submitted that the petitioner is a disabled person with 45% disability in Slipped Capital Femoral Epiphysis and she is residing at Puducherry along with her two children and she finds it very difficult to travel about 100 kms from Puducherry to Thiruvannamalai for attending every hearing in H.M.O.P.No.399 of



2020 on the file of the Family Court, Thiruvannamalai.

4. It is seen from the records that notice has been served on the respondent on 15.07.2021 and though his name appears in the cause list, he did not appear either in person or through any counsel. Hence, this Court proceeds to pass orders on merit.

5. This Court considered the arguments made by the learned counsel for the petitioner and perused the records.

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 divorce and the husband filed an application for restitution of conjugal rights, to avoid multiplicity of proceedings and conflicting judgements, 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, H.M.O.P.No.399 of 2020 is withdrawn from the file of the Family Court, Thiruvannamalai and transferred to the file of the Family Court, Puducherry to be tried along with M.O.P.No.172 of 2020 for disposal as per law. The learned Judge, Family Court, Thiruvannamalai, is directed to transmit the papers to the Family Court, Puducherry forthwith. The learned Judge, Family Court, Puducherry is directed to dispose of H.M.O.P.No.399 of 2020 along with M.O.P.No.172 of 2020 on merits and in accordance with law as expeditiously as possible.

8. The personal appearance of both parties before the Family Court, Puducherry, is dispensed with, except the dates of hearing, on which, the learned Judge insisted upon the parties to appear before the Court. On other hearing dates, the counsel on behalf of the parties may appear before the Court.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Judge Family Court, Thiruvannamalai.

2.The Judge Family Court, Puducherry.

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SSD (CO)
CT (23/09/2021)