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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM:

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Tr.C.M.P.Nos.456 and 457 of 2021

and

C.M.P.Nos.12131 and 12134 of 2021

D.Deepika ... Petitioner in both Tr.C.M.Ps

Versus

G.Vinoth ... Respondent in both Tr.C.M.Ps

Prayer in Tr.C.M.P.No.456 of 2021: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the G.W.O.P.No.53 of 2020 pending on the file of the Principle District Judge, Chengalpet and to transfer the same to the Judge, Family Court, Chennai by allowing this Transfer Petition.

Prayer in Tr.C.M.P.No.457 of 2021: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.216 of 2021 pending on the file of the Subordinate Judge, Alandur, Kancheepuram, and to transfer the same to the Judge, Family Court, Chennai by allowing this Transfer Petition.

In both Tr.CMPs

For Petitioner : Mr. T. P. Segar

For Respondent : M/s. V. Aswini Anjana

ORDER

[The Case has been heard through video conference]

These Transfer Civil Miscellaneous Petitions have been filed by the petitioner seeking to transfer G.W.O.P.No.53 of 2020 pending on the file of the Principle District Court,



Chengalpet and H.M.O.P.No.216 of 2021 pending on the file of the Subordinate Court, Alandur, Kancheepuram, to the file of Family Court, Chennai.

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2. According to the petitioner, the marriage between her and the respondent was solemnized on 01.02.2017 at Jaipur Bavan Thirumana Mandapam, Thathachariyar Garden, Mambazhasalai, Tiruchy and out of their wedlock, a girl child namely, Sasthika was born on 13.11.2018. After marriage some matrimonial disputes arose and the respondent herein filed H.M.O.P.No.687 of 2019 before the Sub-Court, Tambaram, Chennai for restitution of conjugal rights and the same was transferred to the Sub-Court, Alandur, Kancheepuram on the jurisdictional point. He has also filed G.W.O.P.No.53 of 2020 before the Principle District Court, Chengalpet to appoint him as natural guardian and to grant permanent custody of the minor girl. Both the above cases are pending before the respective Courts.

3. According to the petitioner who is working as Senior Software Engineer in SIPCOT, IT Park, Siruseri, Chennai and there is no direct transport facility to Alandur and also Chengalpet and she is finding it very difficult to attend the Courts situated at two different places to get along with the Court proceedings and there is no person to look after her daughter and her aged mother. In such circumstances, the petitioner sought for transfer of the above said cases to the file of the Family Court, Chennai.

4. The counter affidavit has been filed on behalf of the respondent wherein denying the averments made in the petition, it is stated that the petitioner is not living alone but living along with her sister's family and close relatives. She did not appear before the Courts and she was keeping herself absent without any good cause or reason. She has sufficient time and patience to travel on trips to Bombay with her sister's family during holidays but she is not willing to travel or attend any of the Court proceedings before the Alandur Court or Chengalpet Court which are situated near by to Chennai. The petitioner had not allowed the respondent to see his daughter and put him to mental trauma and there is no sufficient reason was assigned for transfer of the case. With these averments, the respondent sought for dismissal of this petition.



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

6. Admittedly, the respondent/husband has filed a petition in H.M.O.P.No.687 of 2019 before the Subordinate Court, Tambaram for restitution of conjugal rights and the same was transferred to Subordinate Court, Alandur on the jurisdiction point. Further, there is no dispute that the respondent/husband has also filed G.W.O.P.No.53 of 2020 before the Principle District Court, Chengalpet and both the above cases are pending before the respective Courts. When the fact is that the petitioner is working as a Senior Software Engineer, SIPCOT, IT Park, Siruseri, Chennai, it would be very difficult for the petitioner to attend the Court proceedings at two different places.

7. Considering the submissions made by the petitioner, that she has to look after his daughter and aged mother and the difficulty to attend the Courts situated at two different places, this Court is inclined to transfer the case to the file of the Family Court, Chennai.

8. Accordingly, G.W.O.P.No.53 of 2020 is withdrawn from the file of the Principle District Court, Chengalpet and H.M.O.P.No.216 of 2021 is withdrawn from the file of the Subordinate Court, Alandur, Kancheepuram and both the cases are transferred together to the file of the Family Court Chennai, for joint trial and disposal as per law. The Principle District Court, Chengalpet and the Subordinate Court, Alandur, Kanchipuram, are directed to transmit the papers to the file of the Family Court, Chennai within a period of six weeks from the date of receipt of a copy of this order. The learned Family Judge, Chennai is directed to dispose of the case in G.W.O.P.No.53 of 2020 and H.M.O.P.No.216 of 2021 on merits and in accordance with law as expeditiously as possible.

9. In fine, these Transfer Civil Miscellaneous Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar



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To:

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1. The Subordinate Judge, Alandur, Kancheepuram.
2. The Judge, Family Court, Chennai.
3. The Principal District Judge, Chengalpat.

+1CC to Mr.T.P.Sekar, Advocate, SR.No. 45371

Tr.C.M.P.Nos.456 and 457 of 2021
and C.M.P.Nos.12131 and 12134 of 2021

AJS(CO)

B.VC (12/10/2021)