



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr CMP Nos.528 and 530 of 2021
and
CMP Nos.14050 and 14063 of 2021

Nathiya.E ...Petitioner in both Tr.CMPs.

Vs

S.Kannan ...Respondent in both Tr.CMPs.

Prayer in Tr.CMP No.528 of 2021: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, pleaded to withdraw FCOP No.146 of 2020 on the file of the Family Court, Namakkal and to transfer the same to the Family Court, Chennai.

Prayer in Tr.CMP No.530 of 2021: Transfer Civil Miscellaneous Petitions filed under Section 24 of the Code of Civil Procedure, 1908, pleaded to withdraw the FCOP No.265 of 2019, on the file of the Family Court, Namakkal and to transfer the same to the Family Court, Chennai.

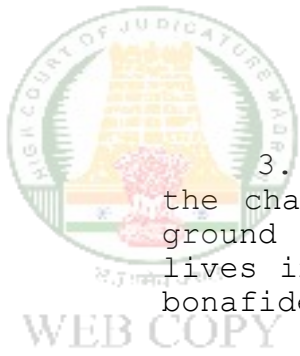
For Petitioner
in both Tr.CMPs. : Ms.Rajeswari Karthikeyan

For Respondent
in both Tr.CMPs. : Mr.S.Varanesh

COMMON ORDER

The wife seeks transfer of FCOP No.265 of 2019 filed by her seeking divorce and FCOP No.146 of 2020 filed by the husband seeking restitution of conjugal rights pending before the Family Court, Namakkal to the Family Court, Chennai.

2. The reason for transfer is that the wife who was a resident of Namakkal was forced to shift to Chennai to earn living for herself. It is stated that now the wife is residing at Adambakkam and the proof of such residence has also been produced by the wife.



3. The learned counsel for the husband would contend that the change in residence of the wife, even if true, cannot be a ground for transfer. He would also submit that her mother still lives in Namakkal and therefore, the request for transfer is not bonafide.

4. I have considered the rival submissions.

5. Though the transfer is sought for to the Family Court, Chennai, the wife being a resident of Adambakkam which is outside the jurisdiction of the Family Court at Chennai, I do not see any justification for transfer of cases to the Family Court at Chennai which will require the physical presence of the husband for every hearing and it will amount to severe hardship for the husband.

6. Considering the over all circumstance, I am of the opinion that both the FCOPs namely FCOP No.265 of 2019 and 146 of 2020 pending on the file of the Family Court, Namakkal are withdrawn and transferred to the Sub Court, Alandur which is nearer to the wife's residence than the family Court at Chennai, to be tried and disposed of in accordance with law. The Sub Court, Alandur is required to dispose of the above two FCOPs within a period of eight months from the date of receipt of papers from the Family Court, Namakkal. No costs. The Transfer Civil Miscellaneous Petitions are allowed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

vum

To

1. The Family Court,
Namakkal.

2. The Sub Court,
Alandur.

+1cc to M/s.Rajeswari Karthikeyan, Advocate, S.R.No.60755

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NSK 08/12/2021