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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.CMP.Nos.639, 650 & 651 of 2021
and
CMP.Nos.16081, 16293 & 16295 of 2021

K.Gokulkumar ...Petitioner in Tr.CMP.No.639 of 2021

C.Jaya Sangeetha ...Petitioner in Tr.CMP.Nos.650 & 651 of 2021

Vs.

C.Jaya Sangeetha ...Respondent in Tr.CMP.No.639 of 2021

1.K.Gokulkumar ...1st Respondent in Tr.CMP.Nos.650 & 651 of 2021

2.Palaniammal

3.E.Kolandavel ...2nd and 3rd Respondents in Tr.CMP.No.650 of 2021

Prayer in Tr.CMP.No.639 of 2021: Transfer civil miscellaneous petition filed under Section 24 of C.P.C., seeking to withdraw HMOP.No.3478 of 2021 pending on the file of the Family Court, Chennai and transfer the same to the Family Court, Erode.

Prayer in Tr.CMP.No.651 of 2021: Transfer civil miscellaneous petition filed under Section 24 of C.P.C., seeking to withdraw FCOP.No.200 of 2020 on the file of the Family Court, Erode and transfer the same to the file of the I-Additional Family Court, Chennai to be tried along with HMOP.No.3478 of 2021.

Prayer in Tr.CMP.No.650 of 2021: Transfer civil miscellaneous petition filed under Section 24 of C.P.C., seeking to withdraw DVA.No.14 of 2020 on the file of the Judicial Magistrate, Mettupalayam and transfer the same to the file of the I-Additional Family Court, Chennai to be tried along with HMOP.No.3478 of 2021.



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For Petitioner : Mr.I.C.Vasudevan
in Tr.CMP.No.639 of 2021

Mr.J.Saravanel
in Tr.CMP.Nos.650 & 651 of 2021

For Respondents : Mr.J.Saravanel
in Tr.CMP.No.639 of 2021
Mr.I.C.Vasudevan
in Tr.CMP.Nos.650 & 651 of 2021

C O M M O N O R D E R

Transfer CMP.No.639 of 2021 has been filed by the husband seeking to withdraw HMOP.No.3478 of 2021 filed by the wife on the file of the Family Court, Chennai to the Family Court, Erode.

2.Tr.CMP.No.650 of 2021 has been filed by the wife seeking transfer of domestic violence case in DVA.No.14 of 2020 on the file of the Judicial Magistrate, Mettupalayam to the I-Additional Family court, Chennai to be tried along with HMOP.No.3478 of 2021.

3.Tr.CMP.No.651 of 2021 has been filed by the wife seeking transfer of FCOP.No.200 of 2020 on the file of the Family Court, Erode to the I-Additional Family Court, Chennai to be tried along with HMOP.No.3478 of 2021.

4.It is not in dispute that the husband is a resident of Erode as of today. It is also not in dispute that the wife lives in United States. The proceeding in DVA.No.14 of 2020 is pending before a Judicial Magistrate Court, which is a special Court authorized to try offences under the Protection of Women from Domestic Violence Act. The proceeding which is under a special enactment cannot be transferred to be tried along with HMOPs. Hence, Tr.CMP.No.650 of 2021 is dismissed.

5.As regards the proceedings under the Hindu Marriage Act namely, HMOP.No.3478 of 2021 and FCOP.No.200 of 2020, the wife, who is in United States is not going to appear in person in both these cases. She will have to be necessarily represented by a power agent. But, the husband, who is a resident of Erode will have to appear in person in the Family Court at Chennai, if the matter is transferred to the Family Court at Chennai. Transferring the proceedings to Chennai would definitely cause inconvenience to the husband, since the proceedings before the



Family court requires appearance of parties for every hearing. Except having the pleasure of inconveniencing the husband, the wife is not going to achieve anything by getting the case transferred to the Family court, Chennai.

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6.No doubt, the convenience of the wife is taken into account, but in the case on hand, the wife is a resident of United States and her convenience is not going to be affected by conduct of proceedings in any of the Courts in India. Considering the convenience of the husband, I am of the considered opinion that the proceedings should be transferred to a Sub-Court, where the appearance of parties is not required for every hearing.

7.In view of the above, FCOP.No.200 of 2020 on the file of the Family Court, Erode as well as HMOP.No.3478 of 2021 on the file of the Family Court, Chennai are withdrawn and transferred to the Sub-Court, Alandur. The Sub-Court, Alandur is directed to dispose of the HMOPs within a period of one year from the date of receipt of the papers from the Family Courts.

8.With the above directions, Tr.CMP.Nos.639 & 651 of 2021 are disposed of. Tr.CMP.No.650 of 2021, seeking transfer of DVA.No.14 of 2020 will stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

To:-

- 1.The Judge,
The Family Court,
Chennai.
- 2.The Judge,
The Family Court,
Erode.
- 3.The Judge
The I-Additional Family Court,
Chennai.



4.The Judge,

The Sub-court,
Alandur.

5.The Judicial Magistrate,
Mettupalayam.

+1cc to Mr.I.C.Vasudevan, Advocate Sr.63056

+3cc to Mr.J.Saravana Vel, Advocate Sr.62873, 62874, 52872

Tr.CMP.Nos.639, 650 & 651 of 2021
and
CMP.Nos.16081, 16293 & 16295 of 2021

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srg 20/12/2021