



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.947 of 2019
and
C.M.P. No.25754 of 2019

M.Tamilarasi .. Petitioner/Respondent

Vs

P.Srinivasan .. Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, withdraw the above H.M.O.P. No.86 of 2019, now pending on the file of the Principal Sub-Judge, Tindivanam and consequently order transfer of the same to the Family Court, Chennai.

For Petitioner : Mr. T.S.Rajamohan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw and transfer the proceedings in H.M.O.P. No.86 of 2019, from the file of the Principal Sub-Judge, Tindivanam, to the Family Court, Chennai.

2. The petitioner is the wife. The marriage between the respondent husband and the petitioner was solemnized on 04.09.2016. It is admitted that out of wedlock, the petitioner wife gave birth to a female baby. The respondent husband filed a petition for divorce in H.M.O.P. No.86 of 2019, before the Principal Sub Court, Tindivanam. Seeking withdrawal and transfer of the proceedings in H.M.O.P. No.86 of 2019, from the file of Principal Sub Court, Tindivanam, to the Family Court, Chennai, the above petition is filed by the wife.

3. During pendency of the proceedings, there was an attempt for mediation. This Court, by order dated 20.01.2020, passed the following order:

"... 3. In view of the above submissions, Ms.

S.K.Priya, who is one of the Panel Mediators, is



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appointed as Mediator, to mediate between the parties and the parties are expected to appear before the said Mediator for the purpose of mediation. The Mediator is expected to fix a date for mediation before the end of this month.

4. The Mediator is requested to mediate between the parties and try to bring about settlement and in case of no settlement between the parties, within three weeks from the date of commencement of mediation, the Mediator shall send a report to the Registry to that effect so as to enable them to list the matter before this Court thereafter."

4. Learned counsel for the petitioner submitted that the respondent did not cooperate for mediation and that the counsel for the respondent, contrary to the submission made before this Court for mediation, has urged the lower Court to proceed with the trial of the proceedings in H.M.O.P. No.86 of 2019. According to the petitioner's counsel, the conduct of the respondent's counsel is unfair as his intention was to get an order from the lower Court even before the petition for transfer is considered on merits. According to the learned counsel for the petitioner, suggestion for a settlement by the learned counsel for the respondent at this stage is not true and made with an ulterior motive. Therefore the mediation is ruled out.

5. Today, learned counsel for the respondent is not present before this Court. Having admitted for referring the matter for mediation, the learned counsel for the respondent ought not to have gone to the trial Court to urge the trial Court to hear the matter on merits. The petition for transfer is on the ground of convenience of wife. In a petition filed by the husband, convenience of the wife is relevant. In the present case, the petitioner wife is living with her minor child. It is stated that she has to travel from Chennai to Tindivanam and that it will be arduous task for the petitioner especially when the petitioner has no one to travel along with her for every hearing.

6. This Court has reasons to believe the statement of the learned counsel for the petitioner about the conduct of the respondent's counsel. The petitioner is entitled to seek transfer on merits in view of the difficulties she will have to face to attend the proceedings before the Principal Sub Court, Tindivanam.

7. For the reasons stated above, this Court is convinced that the petition for transfer has to be allowed on merits. Accordingly, the proceedings in H.M.O.P. No.86 of 2019 on the file of Principal Sub Court, Tindivanam, is hereby withdrawn and transferred to Family Court, Chennai. The Principal Sub Judge, Tindivanam, is directed to transfer the records without



any delay. Thus the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Sub Judge,
Tindivanam,

2.The Judge,
Family Court, Chennai.

+2ccs to Mr. T.S.Rajamohan, Advocate SR. No.61728

Tr. C.M.P. No.947 of 2019

VBM (CO)
PR (29/12/2021)