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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.115 of 2020

and

C.M.P. (MD)No.2263 of 2020

Jeya

... Petitioner/Respondent

-vs-

Alexandar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.537 of 2017 from the file of Family Court, Madurai and transfer the same to the Subordinate Court, Uthamapalayam, Theni District.

For Petitioner : Mr.S.Balakarthick

For Respondent : M.Natarajan

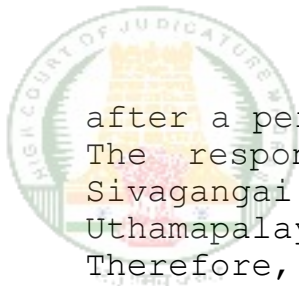
O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.537 of 2017 from the file of Family Court, Madurai and transfer the same to the Subordinate Court, Uthamapalayam, Theni District.

2.The respondent/husband has filed H.M.O.P.No.537 of 2017 before the Family Court, Madurai for divorce. The petitioner/wife has filed H.M.O.P.No.74 of 2018 before the Subordinate Court, Uthamapalayam, for restitution of conjugal rights.

3. The learned counsel for the petitioner/wife submitted that the petitioner is residing with her aged parents in Theni District and she is suffering from tuberculosis and no one available to accompany with her to travel for attending the Court hearings at Madurai and she has to take care of her parents also. The distance between Uthamapalayam and Madurai is nearly 105 kms. Moreover, the respondent has threatened the petitioner with dire consequences. In this circumstance, it is difficult for the petitioner to travel from Uthamapalayam to Madurai for attending the Court hearing in H.M.O.P.No.537 of 2017. Hence, he prays to transfer the case to Sub Court, Uthamapalayam to be tried along with H.M.O.P.No.74 of 2018.

4.The learned counsel for the respondent/husband would submit that only with an intention to drag on the proceedings and harass the respondent, the petitioner has filed this Transfer Petition



after a period of four years from the date of filing of the H.M.O.P. The respondent is presently working as Assistant Professor at Sivagangai Government College. If the case is transferred to Uthamapalayam, the respondent will be put to great hardship. Therefore, he strongly opposed to transfer the case.

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5.Considering the facts and circumstances of the case and also considering the health condition of the petitioner and to avoid conflicting Judgments, H.M.O.P.No.537 of 2017 is withdrawn from the Family Court, Madurai and transferred to the file of Subordinate Court, Uthamapalayam for disposal as per law. The learned Judge, Family Court, Madurai, is directed to transmit the papers to the file of the Subordinate Court, Uthamapalayam, forthwith. The learned Subordinate Judge, Uthamapalayam, is directed to club the proceedings in H.M.O.P.No.537 2017 along with H.M.O.P.No.74 of 2018 together and dispose of the same on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (A.D-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa/cp

To:

- 1.The Judge, Family Court, Madurai.
- 2.The Subordinate Judge, Uthamapalayam.

+1 CC to M/s.S.BALAKARTHICK, Advocate(SR-23363[F] dated 20/07/2021)

+1 CC to M/s.M. NATARAJAN, Advocate (SR-23400[F] dated 22/07/2021)

Tr.C.M.P. (MD) No.115 of 2020

and

C.M.P. (MD) No.2263 of 2020

20.07.2021

RD(30.07.2021) 2P 5C