



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :28.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.116 of 2021

and

C.M.P. (MD) No.2317 of 2021

1.J.Madhan
2.R.Jeganathan
3.A.Muthulakshmi

... Petitioners

-vs-

R.Nagasoundarya

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceedings in D.V.C.No.82 of 2018 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai and transfer to any one of the competent Court in Madurai.

For Petitioners : Mr.S.S.Sundara Pandian

For Respondent : Mr.M.Aswin

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the proceedings in D.V.C.No.82 of 2018 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai and transfer to any one of the competent Court in Madurai.

2.The learned counsel for the petitioners would submit that the first petitioner and the respondent are husband and wife. The first petitioner filed H.M.O.P.No.722 of 2018 before the Family Court, Madurai for restitution of conjugal rights. The respondent filed DVC.No.82 of 2018 before the Metropolitan Magistrate Court, Saidapet, Chennai and it is pending. Thereafter, she filed Tr.CMP.No.683 of 2018 before this Court, seeking to transfer HMOP.No.722 of 2018 filed by the first petitioner from Madurai to Chennai Family Court and the same was transferred to the file of Family Court, Villupuram and it was renumbered as HMOP.No.11 of 2019, wherein, the first petitioner and the respondent are ordered to live together and granted restitution. The learned counsel further submitted that the petitioners 2 and 3 are senior citizens and that the third petitioner is a heart patient and the first petitioner has to take care of them. The first petitioner met with an accident and due to the injuries sustained, he could not able to



travel for attending the Court regularly and he has also produced the discharge summary to that effect and the distance between Madurai and Chennai is about 450 kms. In such circumstances, it is difficult for the petitioners to travel from Madurai to Chennai for attending the Court hearings. Hence, he prays to transfer DVC.No.82 of 2018 to the file of Madurai Court.

3.The learned counsel for the respondent/wife would submit that the first petitioner has not produced the disability certificate to prove his contention. He would further submit that the respondent is having 4 years old child and she has no source of income and so far, the first petitioner has not paid any maintenance to the respondent. Therefore, it is difficulty for the respondent to travel from Chennai to Madurai for attending the case. Hence, he strongly opposes to transfer the case.

4. Considering the facts and circumstances of the case and the fact that the accident was happened in the year 2018 and the disability certificate has not been produced so far, this Court is not inclined to allow this petition.

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

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

To:
The XVII Metropolitan Magistrate
Saidapet, Chennai

Order made in
Tr.C.M.P. (MD) No.116 of 2021
and
C.M.P. (MD)No.2317 of 2021
Dated:
28.06.2021

AS (07.07.2021) P 2C