



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.117 of 2021

and C.M.P. (MD) Nos.3687, 2339 and 2340 of 2021

1.Manikandaprasad

2.M.Padma Murugesan

... Petitioners/Respondent

-vs-

1.H.S.Ajitha

2.M.Dinesh

... 1st Respondent/Petitioner

... 2nd Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to Transfer the case in D.V.C.No.4 of 2021 from the file of the Additional Mahila Court, Nagercoil to the file of the Additional Mahila Court, Tirunelveli District.

For Petitioner : Mr.S.Meenakshi Sundaram
Senior Counsel

For R1 : Mrs.Maria Vinola

For R2 : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in D.V.C.No.4 of 2021 from the file of the Additional Mahila Court, Nagercoil to the file of the Additional Mahila Court, Tirunelveli District.

2.The first respondent/wife has filed D.V.C.No. 4 of 2021 before the Additional Mahila Court, Nagercoil. The present transfer petition is filed by the petitioners seeking transfer of the said petition.

3. The learned counsel for the petitioners submitted that the first petitioner is residing at Tenkasi and the first petitioner is aged about 75 years and he is a senior citizen. The first respondent has also stated in her DVC petition that the first petitioner is residing at Tenkasi. The petition filed by the first respondent itself is not maintainable. Further, the learned counsel for the petitioners submitted that since the first and second respondents are Advocates, other Advocates at Nagercoil refused to appear on behalf of the petitioners. DVC petition is filed only with the motive to harass the petitioners regarding property. Hence, he seeks transfer of case from Nagercoil Court to Tirunelveli.

4. The learned counsel appearing for the first respondent submitted that the first respondent is ill-treated by the

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petitioners and she is having two daughters and she is practising in Nagercoil Court and the distance between Nagercoil and Tirunelveli is about 85 kms. The first respondent is a poor lady and she could not even spend money for her travel expenses and therefore, she is unable to travel to Tirunelveli. The learned counsel for the first respondent would further submit that the first petitioner is residing at Nagercoil. The averment of the petitioners that other Advocates refused to appear for the petitioners is not correct. She vehemently opposed for transfer of case from Nagercoil to Tirunelveli.

5. Heard both sides and perused the materials available on record.

6. The first petitioner has not produced a copy of Adhar Card, Ration Card, Voter ID and Bank Pass Book to prove that he is residing at Tenkasi. In a Cancellation of Will Deed, the first petitioner has mentioned Nagercoil address only. On a perusal of records, it is seen that the first respondent has lodged a complaint dated 09.04.2021 before Asaripallam Police Station against the first petitioner. The first respondent has produced a copy of unnumbered Caveat O.P. In that O.P., it is stated that Caveat petition filed by the Advocate Sri Rajesh Kumar for and on behalf of the Caveators namely, M.Manikandaprasad and M.Padmamurugesan, who are the petitioners herein, under Section 148A of C.P.C. The learned counsel for the petitioners has not made any submissions in this regard.

7. The first respondent is having two children and the reasons stated by the first respondent are acceptable. Hence, DVC petition filed by the first respondent need not be transferred to some other court. The contentions raised by the learned counsel for the petitioners are not acceptable for transfer.

8. In fine, this Transfer C.M.P is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

The Additional Mahila Court, Nagercoil

Tr.C.M.P. (MD) No.117 of 2021
and C.M.P. (MD) Nos.3687, 2339 and 2340 of 2021
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VR (CO)

KB(10.05.2021) 2P 2C

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