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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.205 of 2021

and

C.M.P (MD) No.3917 of 2021

R.Jothi

... Petitioner

-vs-

K.Ajay

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the case in HMOP.No.217 of 2020 pending on the file of the Subordinate Judge, Tambaram to the Family Court, Nagercoil so as to try along with the case in HMOP.No.231 of 2020 pending on the file of Family Court, Nagercoil.

For Petitioner : Mr.S.C.Herold Singh

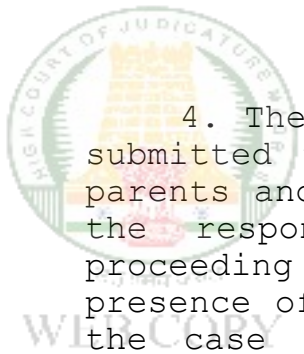
For Respondent : Ms.J.Anandhavalli

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in HMOP.No.217 of 2020 pending on the file of the Subordinate Judge, Tambaram to the Family Court, Nagercoil so as to try along with the case in HMOP.No.231 of 2020 pending on the file of Family Court, Nagercoil.

2.The respondent/husband has filed H.M.O.P.No.217 of 2020 before the Subordinate Court, Tambaram, for dissolution of marriage. The petitioner/wife has filed H.M.O.P.No.231 of 2020 before the Family Court, Nagercoil for restitution of conjugal rights and also filed an another petition in M.C.No.24 of 2020 for maintenance.

3. The learned counsel for the petitioner/wife submitted that the petitioner is residing with her parents at Nagercoil. The distance between Nagercoil and Chennai is nearly 700 kms. The petitioner has no source of income and she is depending on her parents for day today necessities. Therefore, the petitioner is not in a position to spend a huge amount towards transportation from Nagercoil to Tambaram which took around 13 hours for one side. In these circumstances, it is difficult for the petitioner to attend the Court hearing in H.M.O.P.No.217 of 2020. Hence, he seeks to transfer the case to the file of Family Court, Nagercoil to try along with the HMOP.No.231 of 2020.



4. The learned counsel appearing for the respondent/husband has submitted that the respondent is staying in Chennai with old age parents and at present he has no job. The petitioner has threatened the respondent and his parents with dire consequences. The proceeding is before the Subordinate Court, Tambaram, where the presence of the parties for every hearing is not required unlike in the case of Family Court. Therefore, she strongly opposed to transfer the case.

5. Considering the facts and circumstances of the case and considering the arguments made by both sides and to avoid conflicting judgements, H.MO.P.No.217 of 2020 pending on the file of Subordinate Court, Tambaram, Chennai is withdrawn and transferred to the file of Family Court, Nagercoil, to be tried along with H.M.O.P.No.231 of 2020 and M.C.No.24 of 2020 pending on the file of Family Court, Nagercoil, for disposal as per law. The learned Subordinate Judge, Tambaram, Chennai, is directed to transmit the papers to the Family Court, Nagercoil, forthwith. The learned Judge, Family Court, Nagercoil is directed to club HMOP.No.217 of 2020 along with H.M.O.P.No.231 of 2020 and M.C.No.24 of 2020 together and dispose of the same on merits and in accordance with law as expeditiously as possible.

6. The personal appearance of both parties before the Family Court, Nagercoil, is dispensed with, except the dates of hearing, on which, the learned Judge insisted upon the parties to appear before the Court. On other hearing dates, the counsel on behalf of the parties may appear before the court.

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

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

msa/cp

To:

1. The Subordinate Judge, Tambaram, Chennai.
2. The Judge, Family Court, Nagercoil.

+1 CC to M/s. J. ANANDHAVALLI, Advocate (SR-22204[F] dated 13/07/2021)

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-22341[F] dated
13/07/2021)

Tr.C.M.P. (MD) No.205 of 2021
and

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TP (CO)
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