



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.266 of 2021

and

CMP(MD) .No.5414 of 2021

WEB COPY

Dr.S.Nadiya Manzoor

... Petitioner/Defendant

-vs-

Dr.P.Hameed Farooq

.... Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in O.S.No.2 of 2021 from the file of Family Court, Dindigul and transfer the same to the file of Family Court, Kanyakumari at Nagercoil to be tried along with O.S.No.57 of 2020 (renumbered as O.S.N0.178 of 2021) on the file of the Family Court, Kanyakumari at Nagercoil and Guardian Ward Original Petition in G.W.O.P.No.217 of 2019 pending before the Family Court, Kanyakumari at Nagercoil.

For Petitioner : Mr.D.Nallathambi

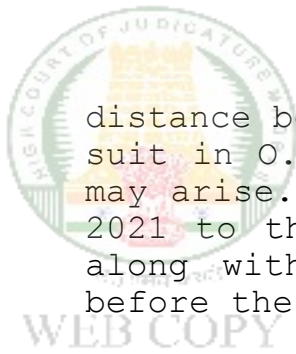
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in O.S.No.2 of 2021 from the file of Family Court, Dindigul and transfer the same to the file of Family Court, Kanyakumari at Nagercoil to be tried along with O.S.No.57 of 2020 (renumbered as O.S.N0.178 of 2021) on the file of the Family Court, Kanyakumari at Nagercoil and Guardian Ward Original Petition in G.W.O.P.No.217 of 2019 pending before the Family Court, Kanyakumari at Nagercoil.

2.The respondent/husband has filed O.S.No.2 of 2021 before the Family Court at Dindigul to declare that there is no husband and wife relationship subsist between themselves and other relief and also filed G.W.O.P.No.217 of 2019 before the Family Court (District Judge), Kanyakumari at Nagercoil for the custody of his three children. The petitioner/wife has filed O.S.No.57 of 2020 before the District Munsif Court, Nagercoil for restitution of conjugal rights and the same was transferred to the file of Family Court, Kanyakumair at Nagercoil and renumbered as O.S.No.178 of 2021.

3.The learned counsel for the petitioner/wife submitted that the petitioner is a medical practitioner and she is having three children and now, she is perusing Master Degree in medicine. The



distance between Nagercoil and Dindigul is nearly 290 kms and if the suit in O.S.No.2 of 2021 is tried separately, conflicting judgments may arise. Therefore, he seeks to transfer the case in O.S.No.2 of 2021 to the file of Family Court, Kanyakumari at Nagercoil to try along with O.S.No.57 of 2020 and G.W.O.P.No.217 of 2019 pending before the Family Court, Kanyakumari at Nagercoil.

4.Though the name of the respondent is printed in the cause list, the respondent has not chosen to appear either in person or through counsel duly instructed.

5.It is seen that the respondent/husband has initiated two different proceedings in two different courts and the petitioner/wife has also filed another proceedings. If the cases are tried by different courts, it would lead to conflicting judgments. Considering the facts and circumstances of the case and considering the submission made by the learned counsel for the petitioner, O.S.No.2 of 2021 is withdrawn from the Family Court, Dindigul and transferred to the file of the Family Court, Kanyakumari at Nagercoil for disposal as per law. The learned Judge, Family Court, Dindigul District, is directed to transmit the papers to the file of the Family Court, Kanyakumari at Nagercoil, forthwith. The learned Judge, Family Court, Kanyakumari at Nagercoil is directed to club the case in O.S.No.2 of 2021 along with O.S.No.57 of 2020 (renumbered as O.S.No.178 of 2021) and G.W.O.P.No.217 of 2019 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, Kanyakumari at 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 (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa/cp

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of

<https://hcds.courts.gov.in/hcds/cv/cases/> the respondent/Intelligent concerned.



To:

1. The Judge, Family Court, Dindigul.
2. The Judge, Family Court, Kanyakumari at Nagercoil

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-23047[F] dated 19/07/2021)

Tr.C.M.P. (MD) No.266 of 2021 and
CMP (MD) .No.5414 of 2021
16.07.2021

MJ (CO)

LR (27.07.2021) 3P 4C