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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

TR.CMP. NO.33 OF 2022

AND

C.M.P.NO.836 OF 2022

R.Revathi

... Petitioner/Respondent.

Vs

R.Vinothkumar

... Respondent/Petitioner.

PRAYER:

Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.34 of 2012 from the file of the Subordinate Judge, Tiruppattur Vellore District and to transfer the same to the Sub Court Paramatthi, Vellore Namakkal or any other court having competent jurisdiction at Namakkal District.

For Petitioner : Mr.D.Raghu

For Respondent : Mr.M.Sivavarthanan

ORDER

The wife has filed this petition seeking to transfer the proceedings filed by the husband/respondent in H.M.O.P.No.34 of 2012 for divorce on the file of the Subordinate Judge Tiruppattur, Vellore to the file of the Sub Court Paramatthi, Vellore , Namakkal District.

2. The reasons given by the petitioner/wife for seeking the transfer are as follows:

a) She is residing at Paramathi Vellore, Namakkal District with her young child and is dependent on her aged parents for her day to day expenses.



b) The Criminal Proceedings is pending before the Mahila Court at Namakkal. in Criminal R.C.No.1038 of 2018.

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c) The provisions of Section 19(iii) of the Hindu Marriage Act has been introduced, whereby the wife has been given special status for both regarding the filing as well as defending the petition.

3. The respondent/husband has entered appearance through counsel and the counsel would oppose the said transfer stating that the proceedings are pending before the Sub Court where the presence of parties are not required and that the petitioner herein had not made out any case for transferring the H.M.O.P. pending now before the Sub-Court at Tiruppatur.

4. Heard the learned counsels on either side.

5. The petitioner admittedly is residing at Paramatthi Vellore and the HMOP for divorce has been filed on the file of the Sub Court at Tiruppatur. There is no statement in the H.M.O.P. that the respondent petitioner has been taking care of his wife and minor child.

6. In these circumstances, he cannot compel his wife/ the petitioner herein to appear before the Sub Court at Tiruppatur. On the contrary if the proceedings are transferred he would not suffer serious prejudice as he need not appear before the Sub Court at Paramatthi where the parties appearance for every hearing is not mandatory. The Court is also taking into consideration the fact that the petitioner/wife has a minor child who requires her constant attention and therefore, the Court is ordering the transfer as prayed for.

7. In view of the above, The Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.34 of 2012 pending on the file of the Subordinate Judge Tiruppattur, is withdrawn and transferred to the file of the Sub Court Paramatthi Vellore, Namakkal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

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Sub Assistant Registrar



To

1.The Subordinate Judge, Tiruppattur.

2.The Subordinate Judge, Paramatthi Vellore Namakkal.

+1cc to Mr.D.Raghu, Advocate, S.R.No.13095

+1cc to Mr.M.Sivavarthan, Advocate, S.R.No.13130

Tr.CMP. No.33 of 2022
and
C.M.P.No.836 of 2022

MT (CO)
PM/25/03/2022