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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

Tr.C.M.P. No. 48 of 2020
and
C.M.P. No. 1457 of 2020

Maheswari .. Petitioner

Versus

B. Elankumaran .. Respondent

**Prayer:**

Transfer Civil Miscellaneous Petition filed under Section 24(1) of Civil Procedure Code, to withdraw the M.O.P. No.45 of 2018 on the file of Family Court, Karaikkal and to transfer to the file of Principal Sub Court, Kumbakonam.

For Petitioner : Mr. V. Nanmaran

For Respondent : Mr. R. Murugabharathi

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**O R D E R**

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This petition has been filed under Section 24(1) of the Code of Civil Procedure, to withdraw the M.O.P. No.45 of 2018 on the file of Family Court, Karaikkal and to transfer to the file of Principal Sub Court, Kumbakonam.

2. The petitioner is the wife and the respondent is the husband herein. The marriage between the petitioner and the respondent was solemnized on 26.01.2011 at Vazhidiyur, Karaikal. The respondent has filed a petition for divorce in M.O.P. No. 45 of 2018 on the file of Family Court, Karaikkal, under Section 13(1) (i-a) and (i-b) of Hindu Marriage Act. It is stated by the learned counsel for the petitioner that the petitioner has two minor girl children out of wedlock, who just 9 and 5 years old and they are studying at Kumbakonam. Her younger daughter is suffering as eosnophillia by birth. During the post pregnancy period her health condition has worsened and also due to the matrimonial issues. Therefore, it is very difficult for her to travel from Kumbakonam to Karaikkal each time for attending the case. It is further stated that her aged parents are residing at Kumbakonam and all the expenses spent only her father not by her husband.

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3. Learned counsel for the petitioner submits that the petitioner who has no support from her husband, is unable to attend the hearing of the case along with her minor children. Since the distance between Karaikkal and Kumbakonam is more than 70 kms and therefore, the petitioner seeks withdrawal and transfer the case from the Family Court, Karaikkal to the file of Principal Sub Court, Kumbakonam, mainly on the ground of convenience.

4. In a petition filed by the husband for divorce, the convenience of wife is relevant. Having regard to the facts narrated in her affidavit filed in support of this petition, this Court is fully convinced that the petitioner should not be put to much inconvenience by traveling such a long distance. Hence, this Court is inclined to allow this petition. Accordingly, M.O.P. No.45 of 2018 pending on the file of Family Court, Karaikkal, is hereby withdrawn and to transfer from the Family Court, Karaikkal to the Principal Sub Court, Kumbakonam, within a period of four weeks from the date of receipt of a copy of this order. After transferring the case, the Court below is directed to complete the entire process in MOP.No.45 of 2018 within a period of six months from the date of receipt of a copy of this order.

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5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

**06.12.2022**

Index:Yes/No
Speaking order / Non speaking order
msm

To

1.The Family Court, Karaikal.

2. The Principal Sub Court, Kumbakonam.

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**V.BHAVANI SUBBAROYAN, J.**

msm

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