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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

Tr.CMP. No.128 of 2022

and

C.M.P.No.2565 of 2022

V.Niviya

... Petitioner/Respondent.

Vs

J.A.Joyluke

... Respondent/Petitioner.

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in HMOP.NO.588 of 2020 from the file of Sub Court, Poonamalle and to transfer the same to the Family Court, Tiruppur.

For Petitioner : M/s J.Franklin

For Respondent : No appearance

ORDER

The respondent/wife in a petition for restitution of conjugal rights filed by the husband on the file of the Sub Court, Poonamalle is the petitioner before this Court. The petitioner seeks to withdraw HMOP.No.588 of 2020 pending on the file of the Sub Court, Poonamalle and transfer the same to the file of the Family Court, Tiruppur.

2. The reasons for seeking the transfer are as follows:

The petitioner herein has filed a petition for divorce in HMOP No.1155 of 2020 which is pending on the file of the Family Court, Tiruppur. The petitioner would further submit that the distance between her native place and the Sub Court, Poonamalle is about 500 kilometers and it is very tedious for her to travel such a long distance for every hearing. She would also submit that she has a 2 years old child, hence it is impossible for her to travel between Tiruppur and Poonamalle carrying her child.



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3. The respondent/husband though served has not entered appearance either in person or through counsel.

4. Heard the learned counsel for the petitioner/wife.

5. Admittedly, the petitioner is living under the care of her widowed mother along with her 2 years old child at Tiruppur. The petition has been filed by the husband at Poonamalle which is over 500 Kms. No doubt the matter is before a Subordinate Court where the presence of the parties for each hearing is not mandatory, however the petitioner will have to travel 500 kms to instruct her counsel to prepare the counter or any other application that she wants to file. In such cases she would have to leave her child back at home or bring her along which would be a considerable strain both physically as well as mentally. Every time she travels to Poonamalle she has to necessarily stay back which would be an additional financial burden. In these circumstances the request of the petitioner appears reasonable.

6. In view of the above, the Transfer Civil Miscellaneous Petition is allowed and HMOP No.588 of 2020, pending on the file of the Sub Court, Poonamalle is withdrawn and transferred to the file of the Family Court, Tiruppur. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge, Poonamalle.

2. The Judge, Family Court Tiruppur.

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