



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.No.84 of 2022
and
C.M.P.No.1672 of 2022

R.Sowmiya

... Petitioner

Vs.

S.Balaji

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code to withdraw O.P.No.18 of 2022 on the file of the IIIrd Additional Family Court, Chennai and transfer the same to the Family Court, Pondicherry.

For Petitioner : Mr.Govind Chandrasekhar

For Respondent : Ms.K.Sridevi

O R D E R

The petitioner/wife has filed this petition seeking transfer of H.M.O.P.No.18 of 2022 filed by the respondent/husband for divorce on the file of the IIIrd Additional Family Court, Chennai to the Family Court, Pondicherry.

2. The petitioner has sought for a transfer on the following grounds:

a) Since the matter is pending before the IIIrd Additional Family Court at Chennai, she is constrained to travel for every hearing from Pondicherry to Chennai which is causing considerable physical as well as financial stress on her.

b) The respondent/husband though he has shown the petitioner as being a resident of Pondicherry but however he has chosen to move the Court at Chennai and not at Pondicherry.

3. After notice, the respondent/husband had entered



appearance through counsel and has filed a counter affidavit. It was originally informed by the learned counsel for the respondent that the petitioner had been set exparte in the proceedings and since there was an order of stay granted they were unable to process the application for setting aside the exparte order. Therefore, by order dated 11.03.2022, this Court was pleased to keep the order of stay in abeyance till 04.04.2022. It was also represented by the counsel for the respondent/husband that he would have no objection for transferring this petition. Thereafter, when the matter was listed on 04.04.2022, counter was taken on file and in his counter, the respondent/husband submitted that the petitioner is working in Chennai, at SIPCOT IT Park and the statement that is made by her in her affidavit is totally wrong. He also filed the copies of the petitioner's pay slip, G-Pay Screenshot that would show that she is residing at Chennai. However, along with the documents, the petition in D.V.C.No.23 of 2022 has been filed. This petition has been filed by the petitioner/wife before the learned Judicial Magistrate-IV, at Pondicherry.

4. The learned counsel for the petitioner/wife submitted that she is no longer working at Chennai and that she has resigned her job from Atos Syntel in December 2021 itself and that her resignation has also been accepted by the Company by letter, dated 25.03.2022. Therefore, it is clear that the petitioner is not residing at Chennai.

5. Considering the fact that she is residing at Pondicherry and as the matter is now pending before the Family Court, Chennai where the presence of the parties for every hearing is compulsory, the request of the petitioner for transferring the proceedings to Pondicherry appears to be justified. The only defence that the respondent/husband had taken was that the petitioner is continuing her employment in Chennai that in the light of the letter from the Company appears to be incorrect.

6. In these circumstances, this Court is inclined to allow this petition and accordingly, this Transfer Miscellaneous Petition is allowed and H.M.O.P.No.18 of 2022 pending on the file of the IIIrd Additional Family Court, Chennai is withdrawn and transferred to the file of the Family Court, Pondicherry. No Costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



ssn

To

1. The IIIrd Additional Judge, Family Court, Chennai

2. The Judge, Family Court, Pondicherry.

+lcc to Ms.K.Sridevi, Advocate, S.R.No.26940

+lcc to Mr.Govind Chandrasekhar, Advocate, S.R.No.26843

Tr.C.M.P.No.84 of 2022 and
C.M.P.No.1672 of 2022

SSI (CO)
CT 26/05/2022