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Tr.C.M.P.No.126 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

Tr.C.M.P.No.126 of 2022

and

C.M.P.No.2538 of 2022

S.Shanmugapriya

... Petitioner

Vs.

S.Kailash

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908, praying to withdraw the case of H.M.O.P.No.158 of 2021 pending on the file of Family Court, Ariyalur and transfer the same to the Sub Court, Panruti.

For Petitioner : Ms.R.Meenal

For Respondent : Mr.Charles Muthushanthan

ORDER

The petitioner/wife seeks transfer of petition filed for divorce filed by the respondent/husband in H.M.O.P.No.158 of 2021 pending on the file of the Family Court, Ariyalur to the file of the Sub Court, Panruti.



Tr.C.M.P.No.126 of 2022

2. According to the petitioner/wife, she is residing at Panruti along with her parents. She also stated that she is having a School going child aged about 6 years. In view of the fact that she has small baby, it is very difficult for her to travel to Ariyalur for the purpose of attending each and every hearing at Family Court proceedings in H.M.O.P.No.158 of 2021 filed by the respondent/husband for divorce. Therefore, she filed this petition for the aforesaid prayer.

3. The learned counsel for the respondent opposes the petition on the ground that the petitioner's father is a powerful person in the locality and the respondent has been receiving severe threats and harassment from the petitioner's family and hence, he will not be in a position to attend the Family Court at Panruti. Therefore, the learned counsel for the respondent requests this Court to transfer the petition to Sub Court, Villupuram instead of Sub Court, Panruti as the respondent apprehends that there will be no physical safety for him at Panruti.

4. In the absence of any material to substantiate the apprehension expressed by the respondent, this Court is not inclined to accede to the request made by the learned counsel for the respondent/husband to transfer the petitioner to Sub Court Villupuram.



Tr.C.M.P.No.126 of 2022

WEB COPY

5. However, the learned counsel for the respondent also made a request that a direction may be given to the Family Court to expedite the divorce petition and dispose of the same at the earliest. The learned counsel for petitioner has no objection for the same.

6. It is well settled law that in respect of cases involving matrimonial dispute, preference shall be given to the convenience of the petitioner/wife.

7. In the case on hand, the petitioner is residing at Panruti along with her parents with a small child. As per the averments found in the affidavit filed by the petitioner/wife, it is clear that she is having child aged about 6 years and it would be very difficult for her to travel to Ariyalur to attend each and every hearing at Family Court, Ariyalur. Hence, it would be appropriate to transfer the divorce petition filed by the respondent/husband in H.M.O.P.No.158 of 2021 pending on the file of the Family Court, Ariyalur to the file of the Sub Court, Panruti.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed by withdrawing the petition for divorce filed by the respondent/husband in



Tr.C.M.P.No.126 of 2022

H.M.O.P.No.158 of 2021 from the file of the Family Court, Ariyalur and

transferring the same to the file of the Sub Court, Panruti.

9. However, considering the submission made by the learned counsel for the respondent, this Court is inclined to issue a direction to the Sub Court, Panruti to dispose of the original petition, within a period of six months from the date of receipt of the original records from transferring of Court. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2022

Index : Yes/No

Speaking Order : Yes/No

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To

1.The Family Court,
Ariyalur.

2.The Sub Court,
Panruti.



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Tr.C.M.P.No.126 of 2022

S.SOUNTHAR, J.
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Tr.C.M.P.No.126 of 2022
and
C.M.P.No.2538 of 2022

21.09.2022