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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.No.154 of 2022

&

C.M.P.No.2962 of 2022

Ashwini Reddy

... Petitioner

Vs

S.Abishek Reddy

... Respondent

Prayer: The petition is filed under Section 24 of the Code of Civil Procedure to withdraw and transfer H.M.O.P.No.114 of 2021 on the file of the Principal Sub Court at Chengalpattu to the file of the Principal Judge, Family Court, Chennai to be tried along with O.P.No.4676 of 2021.

For Petitioner : Mr.J.Saravana Vel

For Respondent : Paper Publication Effected

ORDER

The respondent wife in a proceedings for restitution of conjugal rights filed by the husband in H.M.O.P.No.114 of 2021 on the file of the Principal Subordinate Court, Chengalpattu is the petitioner before this Court.

2. The petitioner seeks transfer of the said H.M.O.P.No.114 of 2021 to the file of the Principal Family Court, Chennai to be tried along with O.P.No.4676 of 2021. The petitioner has attempted to serve the respondent on several occasions at the address for service given in the HMOP. The learned counsel for the petitioner had represented to the Court that the respondent who is very much available in the residence has been manipulating the postal delivery.



3. This Court had verified the affidavit of service that was filed by the petitioner enclosing the tracking consignment. Therefore, this Court had directed the petitioner take substituted service in one issue of "Makkal Kural" for the hearing dated 28.04.2022. The publication has also been taken accordingly. Therefore, the service is deemed to be completed upon the respondent husband. The petitioner seeks to transfer H.M.O.P.No.114 of 2021 pending on the file of the Principal Subordinate Court, Chengalpattu to the Principal Family Court, Chennai on the following grounds:

(i) The petitioner is living with her parents at Chennai and would find it extremely difficult to travel to Chengalpattu, where though it is a Subordinate Court, the presence of party is compulsorily asked for.

(ii) The petitioner has a child who is just about 3 years old who is in her care and custody.

(iii) The petitioner is working from home and would find it difficult to travel to Chengalpattu and she also does not have any assistance to accompany her to Chengalpattu.

4. The learned counsel for the petitioner would reiterate the contents of the affidavit filed in support of the Transfer Petition.

5. Heard the learned counsel and perused the records.

6. The petitioner wife has filed the petition for divorce in October 2021 itself. Thereafter, the respondent husband has taken out an application for restitution of conjugal rights before the Principal Subordinate Court, Chengalpattu. The petitioner has three year old child to take care of. That apart, the petitioner cannot be made to attend the Court for each hearing travelling all the way from Chennai to Chengalpattu particularly when the husband has not taken steps to maintain the wife and child. That apart, the petitioner's HMOP is prior in point of time and pending before the Family Court, Chennai.

7. In these circumstances and taking into account the inconvenience being caused to the petitioner wife, whose place of residence also confers Jurisdiction, the Transfer Civil Miscellaneous Petition is allowed. Accordingly, H.M.O.P.No.114 of 2021 pending on the file of the Principal Sub Court,



Chengalpattu is withdrawn and transferred to the file of the Principal Family Court, Chennai. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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SD/-  
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

- 1.The Principal Subordinate Judge,  
Chengalpattu.
- 2.The Principal Family Court Judge,  
Chennai.

Copy to

The Section Officer,  
VR Section, High Court, Madras.

+1cc to Mr.J.Saravana Vel, Advocate Sr.29759

Tr.C.M.P.No.154 of 2022

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srg 17/05/2022