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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.255 of 2022

&

C.M.P.No.5081 of 2022

Maheswari

... Petitioner/Respondent

Vs

Karthik Raj

... Respondent/ Petitioner

Prayer: The petition is filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.2541 of 2020 on the file of the III Additional Family Court, Chennai and transfer the case to the file of the Family Court, Cuddalore.

For Petitioner : Mr.R.Chandra Mohan

For Respondent : Mr.A.R.Nixon

ORDER

The respondent wife in a proceedings for divorce filed by the husband in H.M.O.P.No.2541 of 2020 on the file of the III Additional Family Court, Chennai is the petitioner before this Court seeking to transfer the said proceedings to the file of the Family Court, Cuddalore. The facts in brief which is necessary for considering and disposing of this petition are as follows.

2. The marriage between the petitioner and the respondent had taken place as per the Hindu Rites and Customs on 24.04.2017. The petitioner and the respondent had thereafter commenced their marital life in Bangalore where they stayed for just about 4 days and the respondent had compelled the petitioner to return to Chennai. Further, the respondent was never in a settled job. He was also very suspicious in nature. Thereafter, the respondent started harassing the petitioner alleging that she was having adulterous relationship with one of her co-workers. The petitioner further contended that the respondent husband had demanded the petitioner to dissolve the marriage by mutual consent. Since the petitioner had refused,



the respondent has come forward to file the present HMOP.

3. It is the case of the petitioner that she is now residing at Cuddalore and would find it extremely difficult to attend each hearing since the matter is pending before the III Additional Family Court, Chennai. Therefore, she had come forward with the Transfer Petition.

4. Mr.A.R.Nixon, learned counsel who has appeared for the respondent has filed a counter inter alia contending that H.M.O.P.No.2541 of 2020 is at the part heard stage, where the proof affidavit of the respondent is filed and the matter is posted for cross examination of the petitioner.

5. The learned counsel for the respondent would submit that at this Juncture if the matter is transferred it would cause prejudice to the respondent husband. Therefore, he would submit that there is no necessity to transfer the petition at this juncture.

6. Heard the learned counsel and perused the records.

7. Admittedly, the wife is residing at Cuddalore and the matter is now pending before the III Additional Family Court, Chennai, where the presence of the parties is mandatory. That apart, the matter is posted for Trial which means that the parties have to definitely appear for all hearings. This would cause considerably strain to the petitioner wife who would have to travel all the way to Chennai and she would have to take assistance of some person which would make additional financial liability. On the contrary, if the matter is transferred to the Family Court, Cuddalore it is only the husband who has to travel.

8. Mr.A.R.Nixon after making his submissions had requested the Court to dispense with the presence of the husband for all non effective hearing except for adducing evidence. He would request that the matter may be posted at the stage at which it is pending before the Family Court, Chennai.

9. Considering the above circumstances and the limited request made by the learned counsel for the respondent, the Transfer Civil Miscellaneous Petition is allowed. Accordingly, H.M.O.P.No.2541 of 2020 pending on the file of the III Additional Family Court, Chennai is withdrawn and transferred to the file of the Family Court, Cuddalore. The matter shall be continued from the stage at which it is now pending on the file of the III Additional Family Court, Chennai. Consequently, connected Civil Miscellaneous Petition is closed. No costs.



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10. However, the presence of the respondent husband is dispensed with for all ineffective hearing.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

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To

1.The III Additional Family Court,
Chennai.

2.The Family Court,
Cuddalore

+1cc to Mr.R.Chandra Mohan, Advocate SR.No.29307

+1cc to Mr.A.R.Nixon, Advocate SR.No.29483

Tr.C.M.P.No.255 of 2022

AD(CO)
GMY(10/05/2022)