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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.207 OF 2022

AND

C.M.P.NO.4244 OF 2022

Mrs.Saranya

...Petitioner

Vs.

Mr.R.Narendran

...Respondent

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code to withdraw the H.M.O.P.No.114 of 2021 from the file of the Family Court, Cuddalore and transfer the same to the file of the VII Additional Family Court, Chennai tried along with M.C.No.528 of 2021.

For Petitioner : Mr.S.Ramachandran

For Respondent : Mr.P.Suresh Babu

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the respondent/wife seeking to transfer H.M.O.P.No.114 of 2021 filed by the respondent/husband on the file of the Family Court, Cuddalore for divorce to the file of VII Additional Family Court, Chennai to be tried along with the maintenance case filed by her in M.C.No.528 of 2021.

2. The reasons for seeking transfer in brief are that:

a) The petitioner is unemployed and she has not only got to take care of herself but also her minor daughter. The respondent/husband has not given any maintenance to them. The petitioner has also filed a maintenance case in M.C.No.528 of 2021 before the VII Additional Family Court, Chennai seeking maintenance.

b) The petitioner is entirely dependent on her parents for her day to day expenses and also for her child expenses.



c) The matter is pending before the Family Court where the parties have to appear for every hearing which means that the petitioner has to travel from Chennai to Cuddalore for every hearing.

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3. Considering the fact that the respondent/husband has not been maintaining her she would have spent out of her pocket to appear before the Court which would an additional strain on her already stressed circumstances. She had also submitted that she would be physically in danger, if she attended the proceedings at the Family Court, Cuddalore.

4. The respondent after service of notice had filed counter stating that there is no threat to the petitioner in attending the Court proceedings at Cuddalore (such a ground has not been stated by the petitioner in her affidavit filed in support of the petition). The respondent has also stated that the proceedings before the Family Court, Cuddalore is for divorce, whereas, the proceedings before the Family Court at Chennai has been filed for maintenance and there was a need for a joint trial to avoid any conflicting orders. It is only on account of the fact that she is not receiving any maintenance that she has been constrained to file the proceedings seeking maintenance under M.C.No.528 of 2021. Without providing maintenance, the respondent cannot seek to compel the petitioner/wife to appear for every hearing before the Family Court at Cuddalore.

5. Therefore, in the interest of justice, this Transfer Civil Miscellaneous Petition is allowed and the proceedings pending on the file of the Family Court, Cuddalore in H.M.O.P.No.114 of 2021 is withdrawn and transferred to the file of the VII Additional Family Court, Chennai to be tried along with M.C.No.528 of 2021. No Costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

ssn

To

1.The Family Court,
Cuddalore.



2.The VII Additional Judge,
Family Court, Chennai.

+1cc to Mr.S.Ramachandran, Advocate Sr.No.26188

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Tr.C.M.P.No.207 of 2022
and
C.M.P.No.4244 of 2022

SSI (CO)
RVM(11/05/2022)