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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.217 of 2022
and C.M.P.No.4466 of 2022

Balasundari

... Petitioner

..Vs..

Chidambara Vignesh

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.41 of 2021 pending on the file of the Sub Court, Alandur and transfer the same to the file of the Sub Court, Tenkasi.

For Petitioner : Mr.Om Sai Ram

For Respondent : Mr. P.Manikannan

O R D E R

This transfer petition has been preferred by the petitioner/wife seeking to withdraw the H.M.O.P.No.41 of 2022 pending on the file of the Sub Court, Alandur and transfer the same to the Sub Court, Tenkasi.

2.Heard the learned counsel on either side and also perused the materials available on record.

3.The respondent is the husband of the petitioner and he has filed H.M.O P No.41 of 2022 for the relief of restitution of conjugal rights. The petitioner is said to be residing at Tenkasi with her 3 years old daughter. It is submitted that the petitioner finds it inconvenient to travel from Tenkasi to Alandur for making her appearance along with her child and taking into consideration of her difficulties, the matter should be transferred to Tenkasi.

4. However, the learned counsel for the respondent filed a counter stating that the matter should not be transferred to Tenkasi, because he is facing a threat from the relatives of the petitioner at Tenkasi and hence the matter should be transferred to the Family Court, Tirunelveli.



5. In matrimonial proceedings, preference should be given to the convenience of the wife and the said position has been settled in various Judgments of the Hon'ble Supreme Court and more particularly, the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Infact as per the amended Section 19(iii-a) of the Hindu Marriage Act, 1955, the wife is guarded with the right to file proceedings in the place where she resides. The above amendment was brought with the object of facilitating the wife to participate in the matrimonial proceedings without any hindrance.

6. In the case on hand, the three years old daughter of the parties, is now in the custody of the petitioner. So it is true that the petitioner finds it inconvenient to travel from Tenkasi to Alandur, to make her appearance there. If really, the respondent faces any threat in the hands of the relatives of the petitioner, he can seek necessary order from the Family Court having the jurisdiction or some other legal recourse. No material is produced to substantiate the allegation that he is being threatened by the relatives of the petitioner. In such circumstances, I find no reason to deny the relief sought for by the petitioner.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.41/2022 filed by the Respondent is ordered to be withdrawn from the file of Sub Court, Alandur and transferred to the file of the Sub Court, Tenkasi. The learned Subordinate Judge, Sub Court, Alandur, is directed to transmit all the records pertaining to H.M.O.P.No.41/2022 to the file of the Sub Court, Tenkasi, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge, Alandur.



2.The Subordinate Judge, Tenkasi.

+1cc to Mr.OM Sai Ram, Advocate, S.R.No.33856

+1cc to Mr.P.Manikanan, Advocate, S.R.No.33349

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Tr.C.M.P. No.217 of 2022
and C.M.P.No.4466 of 2022

RSV (CO)
SB (28/06/2022)