



Tr.C.M.P.No.284 of 2022
and C.M.P.No.5760 of 2022

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R.N.MANJULA. J.,

Today this matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner.

2.It is submitted by the learned counsel for the petitioner that the order, which has been transferred is not the order passed in the writ petition as a wrong order has been inadvertently transferred. Therefore, he prays that direction may be issued to the Registry to have the correct order hosted on the website and also to draft the same and give a fresh copy to the parties.

3.A perusal of the order dated 23.06.2022 reveals that while a wrong order has been inadvertently transferred by the Personal Assistant. Even during drafting of the said order, which is handed over to the parties, the concerned section has not verified the transferred order with the signed order, though the signed order is different from the transferred order. In the aforesaid circumstances, Registry is directed to upload the corrected copy of the order and also to give a fresh order copy, in consonance with the signed order of this Court to the parties.

29.08.2022

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R.N.MANJULA. J.,

vkf

Tr.C.M.P.No.284 of 2022

and C.M.P.No.5760 of 2022

29.08.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.284 of 2022 and
C.M.P.No.5760 of 2022

A.Alavudeen

... Petitioner

..Vs..

1.A.Jemila

2.A.Nibisha

3.A.Nilabernisha

... Respondents

Prayer:- Petition is filed under Section 24 of C.P.C., pleaded to withdraw the M.C.No.7 of 2021 pending on the file of the District Family Court Judge, Thirupur and transfer the same to the file of the District Family Court, Namakkal.

For Petitioner : M/s.P.Arularasi

For Respondents : Mr.M.Marimuthu

ORDER

This petition is filed to withdraw M.C.No.7 of 2021 pending on the file of the District Family Court, Thirupur and transfer the same to the file of the



District Family Court, Namakkal.

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2. Heard the learned counsel appearing for both the petitioner and the respondents and perused the materials available on record.

3. The petitioner is the husband, first respondent is the wife and respondents 2 and 3 are the daughters. The marriage between the petitioner and respondent was solemnized on 22.08.1999 as per Muslim Rites and Customs. Since the relationship between the couples went bitter, the first respondent along with respondents 2 and 3 filed M.C.No.7 of 2021, on the file of the District Family Court, Thiruppur, against the petitioner for maintenance. Now, the petitioner herein who is the husband has preferred the present petition to withdraw M.C.No.7 of 2021 pending on the file of District Family Court, Thiruppur and transfer the same to the District Family Court, Namakkal.

4. The petitioner has stated that he has diagnosed from Coronary Artery Disease and hence, it is not possible for him to travel from Namakkal to Tiruppur for every hearings.

5. The respondent/wife is living with her two daughters and it is not fair



to make her to travel from Tiruppur to Namakkal for each and every hearings.

Since the first respondent is unable to maintain herself and her daughters, she has filed a maintenance petition for claiming maintenance. Under such circumstances, it will be an added burden for her to bare the traveling expenses. If the petitioner does not deny the relationship with the first respondent, it is up to him to settle the matter by paying proper maintenance to the respondents or to amicably settle the issue once and for all by paying any lumpsum maintenance.

6.It is needless to state that in matrimonial proceedings, preference should be given to the convenience of the wife. The said position has been settled in various judgments of the Hon'ble Supreme Court and more particularly in 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]**. In view of the above reasons, the prayer sought for by the petitioner/husband to transfer the case in M.C.No.7 of 2021 from the file of the District Family Court, Thirupur to the file of the District Family Court, Namakkal can not be considered favourably.



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7. Accordingly, the Transfer Civil Miscellaneous Petition stands dismissed.

However, it is open to the revision petitioner to file a petition through his counsel to seek leave of the Court to dispense his personal appearance, when he needs to go for medical checkup / treatment by filing appropriate records. In the event of such petition filed, the learned District Family Judge, Namakkal, shall also consider the same and pass orders in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

24.06.2022

Index: Yes/No

Speaking Order: Yes/No

vkr

To

1. The Judge, District Family Court, Thirupur.
2. The Judge, District Family Court, Namakkal.



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R.N.MANJULA,J.

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24.06.2022