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Tr.CMP.Nos.468 & 472 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.06.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

TR.CMP.Nos.468 & 472 of 2022
and
CMP.Nos.8452 & 8470 of 2022

Sankari	...	Petitioner in both cases
	Vs.	
P.Monash	...	Respondent in both cases

COMMON PRAYER: The Memorandum of Transfer Civil Miscellaneous Petitions filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.Nos.22 & 108 of 2015 on the file of the Principal Sub-Court, Tindivanam and to transfer the same to the file of the Family Court, Chennai.

In both cases
For Petitioner : E.Pushpa
for M/S.Dass and Viswa Associates
For Respondent : No appearance.

COMMON ORDER

The petitions have been preferred to withdraw the H.M.O.P.Nos. 22 & 108 of 2015 on the file of the Principal Sub-Court, Tindivanam and to transfer the same to the file of the Family Court, Chennai.



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2. Heard the learned counsel for the petitioner and perused the materials available on record. Though the notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of the respondent, today.

3. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 15.09.2013 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the petitioner/wife has filed a petition in H.M.O.P.No.22 of 2015 on the file of the Principal Sub Court, Tindivanam against the petitioner seeking for restitution of conjugal rights. Immediately thereafter, the respondent/husband has filed a petition in HMOP.No.108 of 2015 seeking for divorce on the file of the Principal Sub Court, Tindivanam. Now, the petitioner herein has preferred the present petition to withdraw H.M.O.P.Nos. 22 & 108 of 2015 pending on the file of the Principal Sub Court, Tindivanam and transfer the same to the file of the learned Judge, Family Court, Chennai.



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4. The petitioner has stated that she is staying with her aged parents and a male child and it is very difficult for her to travel from Chennai to Tindivanam for attending the Court proceedings at Tindivanam.

5. It is needless to say that in the matrimonial proceedings, preference should be given to the convenience of the wife. The said position has been settled in various judgements of the Hon'ble Supreme Court and more particularly the Judgement 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 fact 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 hardship. In view of the above reasons, I feel that the prayer of the petitioner should be considered favourably.

6. Accordingly, the Transfer Civil Miscellaneous Petitions are allowed. The petitions in H.M.O.P.No.22 of 2015 filed by the petitioner



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and H.M.O.P.No.108 of 2015 filed by the respondent, are ordered to be withdrawn from the file of Principal Sub Court, Tindivanam and transferred the same to the file of the Family Court at Chennai. The learned Principal Subordinate Judge, Tindivanam is directed to transmit all the records pertaining to H.M.O.P.Nos. 22 & 108 of 2015 to the file of the Family Court at Chennai, within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

24.06.2022

Index : Yes/No
Speaking Order : Yes / No
jrs



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To

1. The Principal Sub Court, Tindivanam.

2. The Family court, Chennai.

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



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R.N.MANJULA, J.,

jrs

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