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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

Tr.C.M.P.No.449 of 2020
and
C.M.P.No.10158 of 2020

Nallalagu ... Petitioner/Respondent

-Vs-

Valliappan ... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.57 of 2020 on the file of Sub Court, Devakottai and transfer it to the file of the Family Court, Puducherry.

For Petitioner : Mr.P.Dinesh Kumar

For Respondent : Not ready in notice

ORDER

The Transfer Civil Miscellaneous Petition has been filed by the wife seeking transfer of H.M.O.P.No.57 of 2020 filed by the husband on the file of the Subordinate Court, Devakottai, to the file of the Family Court, Puducherry.

2.The petitioner would contend that marriage between herself and the respondent had been solemnized on 27.05.1998 at Arimalam, Pudukottai as per Hindu rites and customs. Out of wedlock, they had one daughter namely Sreenidhi and a son namely Vinayak. The respondent did not take proper care of the children. Thereafter, the respondent filed H.M.O.P.No.57 of 2020 for dissolution of marriage.

3.The reasons for seeking the transfer are as follows:



"1.The petitioner is residing at Puducherry in her parent's house.

2.The distance between Devakottai and Puducherry is too far and she cannot travel each time to attend the hearings.

3.The respondent husband has never cared to support his wife and the children."

4.Heard the learned counsel for the petitioner and perused the papers. The Court notice sent to the respondent has been returned with the endorsement "unclaimed". Therefore, there is a deemed intimation to the respondent about the proceedings. Hence, the respondent is called absent.

5.Admittedly, the petitioner is residing at Puducherry and Section 19 of the Hindu Marriage Act, 1955, confers Jurisdiction on the place of residence of the respondent wife. Further, the petitioner has to take care of her children and it is not advisable to make her travel for every hearing.

Under these circumstances, the request for transfer is justified and accordingly, the petition is allowed. Since the matter is now being transferred from Subordinate Court to Family Court, where the presence of parties are must, this Court is allowing the Transfer Civil Miscellaneous Petition in and by which H.M.O.P.No.57 of 2020 pending on the file of the Subordinate Court, Devakottai, withdrawn and transferred to the file of the Family Court, Puducherry. The Family Court, Puducherry shall not insist upon the presence of the respondent except for attending the counseling sessions and for adducing evidences. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mps

To

1. The Subordinate Court,
Devakottai.



2. The Family Court,
Puducherry.

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+1cc to Mr.D.Ravichander, Advocate, S.R.No.20040

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SKM(CO)
SU(17/05/2022)