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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Tr.CMP.No.560 of 2021
and
CMP.No.14680 of 2021

M.S.Aswathi

..Petitioner/Respondent

Vs.

S.Sandeep

..Respondent/Petitioner

Prayer: Transfer civil miscellaneous petition filed under Section 24 of CPC, seeking to withdraw HMOP.No.356 of 2021 on the file Sub-ordinate Judge, Alandur and transfer the same to any Family Court at Chennai.

For Petitioner : Mr.D.Bennington

For Respondent : Mr.V.Benedict Vincent

O R D E R

The petitioner / wife seeks transfer of HMOP.No.356 of 2021 filed by the husband on the file of the Sub-Court, Alandur.

2.The original petition was filed before the Sub-Court, Tambaram in the year 2020 and it was transferred to the Sub-Court, Alandur, upon its constitution and numbered as above. The wife seeks transfer of the proceedings to the Family Court at Chennai, on the ground that it will be convenient for her, since she is a resident of Mylapore. The husband is a resident of Kanyakumari.

3.No doubt, the convenience of the wife should be the paramount consideration in the matters of transfer at the same time the Court should not permit the wife to misuse the judgment of the Hon'ble Supreme Court, which held that convenience of wife should be given paramount consideration in transfer of matrimonial matters, so that the husband will be forced to appear in person for every hearing and he will be put to untold misery and suffering. In the case on hand, the husband hails



from Kanyakumari, which is about 700 kilometres from Chennai. If the HMOP is transferred to the Family Court at Chennai, the husband will have to travel 1400 kilometres up and down for every hearing, which will amount to substantial hardship to him.

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4. The Courts must also look into the convenience of both the parties to a proceeding, when transfer is sought for. The proceeding is now pending before a Sub-Court, where parties can appear through counsel for non-essential hearings and by allowing the proceeding to continue at the Sub-Court, the inconvenience that would be caused to the husband by transferring the original petition to the Family Court will be reduced. The wife can always appear before the Sub-Court at Alandur, which is about 12 kilometres from Mylapore. I therefore, do not see any reason to entertain this petition for transfer. This transfer civil miscellaneous petition is therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To:-

The Sub-ordinate Judge,
Alandur.

+1cc to Mr.D.Bennington, Advocate, S.R.No.1245

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SRA(CO)
RGA(24/01/2022)