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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

TR.C.M.P.NOS.603 & 604 OF 2021

AND

C.M.P.NOS.15279 & 15274 OF 2021

TR.C.M.P.NO.603 OF 2021

Mrs.N.Indhu @ Kowsalya

... Petitioner/Respondent

.Vs.

Mr.S.Jeevanandham

... Respondent/Petitioner

PRAYER:-

Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, praying to withdraw the H.M.O.P.No.54 of 2021 on the file of Subordinate Court, Mettupalayam and to transfer the same to Sub Court, Dharapuram.

TR.C.M.P.NO.604 OF 2021

Mrs.N.Indhu @ Kowsalya

... Petitioner/Petitioner

.Vs.

Mr.S.Jeevanandham

... Respondent/Respondent

PRAYER:-

Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, praying to withdraw the H.M.O.P.No.53 of 2021 on the file of Subordinate Court, Mettupalayam and to transfer the same to Sub Court, Dharapuram.

For Petitioner in : M/s.S.Vasavi Sridevi
Both Tr.C.M.P's



For Respondent in : M/s.S.Pooja Shree
Both Tr.C.M.P's For Mr.A.Parthasarathy

COMMON ORDER

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The petitioner/wife seeks transfer of H.M.O.P.Nos.53 & 54 of 2021 pending on the file of Sub Court, Mettupalayam to Sub Court, Dharapuram. Transfer is sought for on the ground of convenience since the wife is a resident of Dharapuram.

2. H.M.O.P.No.53 of 2021 has been filed by the wife in July 2021 seeking restitution of conjugal rights before the Sub Court at Mettupalayam. In the said proceeding, she had given her residential address as Door No.5/36, Janardhanan Nagar, Maniyakaran Kadu, Mettupalayam, Coimbatore District. She had also produced her Aadhar Card as evidence of her residence at the said address.

3. On 08.09.2021, that is about 2 months after the presentation for petition for restitution of conjugal rights, the husband has come up with H.M.O.P.No.54 of 2021 seeking declaration that the marriage is a nullity. In the said petition for declaration, the husband has given the address of the wife as No.5/74, NGGO Colony, Pollachi Road, Dharapuram. It is therefore clear that the wife is a resident of Dharapuram and not Mettupalayam. The wife has enclosed another Aadhar Card along with Transfer Petition wherein she is shown to be a resident of Dharapuram in Tiruppur District.

4. While the learned counsel appearing for the wife seeks transfer to Dharapuram, the learned counsel for the husband would submit that his life is in danger if he is go to Dharapuram. It is also claimed that the wife's family trespassed in to the husband's house and threatened them.

5. It is settled law that the convenience of the wife should be given importance or priority in matters of transfer in a matrimonial proceedings. In the case on hand, the husband himself has chosen to give the address of the wife as Dharapuram when he filed a petition seeking a declaration that the marriage is a nullity.

6. Considering the same, I am of the opinion that the original proceedings, which are now pending on the file of the Sub Court, Mettupalayam, should be transferred to Sub Court, Dharapuram. The claim of the husband that his life will be in danger if he is go to Dharapuram cannot stand in the way as the husband is not required to go to Dharapuram for every hearing since the proceedings are to be held before the Sub Court and



not a Family Court. I therefore do not see any substance in the objections of the learned counsel for the husband for the transfer.

7. Accordingly, these Transfer Civil Miscellaneous Petitions are allowed and H.M.O.P.Nos.53 and 54 of 2021 are withdrawn from the file of Sub Court, Mettupalayam and transferred to the file of Sub Court, Dharapuram. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Sub Court,
Mettupalayam.
2. The Sub Court,
Dharapuram.

+2ccs to Mr.A.Parthasarathy, Advocate, S.R.No.2083

TR.C.M.P.NOS.603 & 604 OF 2021 AND
C.M.P.NOS.15279 & 15274 OF 2021

MT(CO)
PBS/31/01/2022