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TR.CMP.No.762 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

TR.CMP.No.762 of 2022
and CMP.No.13011 of 2022

A.R.Nilavarasi

... Petitioner

VS

Kumaraguruparan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, pleaded to withdraw the H.M.O.P.No.77 of 2022 on the file of Subordinate Court, Devakottai and transfer the same to the file of the Principal Family Court, Chennai or any other Family Court at Chennai to try along with O.P.No.2482 of 2022 on the Principal Family Court, Chennai.

For Petitioner : Mr.J.R.K.Bhavanantham
For Respondent : Mr.G.Vinodhkumar

ORDER

The petitioner/wife has come up with this transfer Civil Miscellaneous Petition, seeking transfer of the petition for restitution of conjugal right filed by the respondent/husband in H.M.O.P.No.77 of 2022



TR.CMP.No.762 of 2022

from the file of the Subordinate Court, Devakottai, to the file of Principal Family Court, Chennai for joint trial along with O.P.No.2482 of 2022 on the file of Principal Family Court, Chennai.

2. According to the petitioner/wife, she is working as a Software Engineer in Chennai and the respondent/husband is working at Bangalore. She has also filed a petition for declaration that marriage between the petitioner and the respondent is a nullity, in O.P.No.2482 of 2022 on the file of Principal Family Court, Chennai. It is also submitted by the learned counsel for the petitioner that her petition for declaration was decreed exparte on 22.09.2022.

3. It is stated that the respondent herein has filed a petition for restitution of conjugal rights at Subordinate Court, Devakottai, just to harass the petitioner, even though he is residing at Bangalore.

4. It is settled law that in the matrimonial cases, the convenience of the wife shall be given preference. In the case on hand, the petitioner is working at Chennai and the respondent is working at Bangalore and the proceedings is



TR.CMP.No.762 of 2022

pending before the Subordinate Court, Devakottai. By considering the facts and circumstances of the case and convenience of the petitioner/wife, this Court is inclined to order the above transfer application.

5. Accordingly, the transfer Civil Miscellaneous Petition is allowed by withdrawing H.M.O.P.No.77 of 2022 from the file of the Subordinate Court, Devakottai and transferring the same to the file of Principal Family Court, Chennai for joint trial, along with O.P.No.2482 of 2022 filed by the petitioner, on the file of Principal Family Court, Chennai. It is made clear that in case the exparte decree passed in O.P.No.2482 of 2022 is set aside, there shall be a joint trial of both the original petitions or otherwise the Family Court, Chennai is at liberty to decide H.M.O.P.No.77 of 2022, independently. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2022

Index : Yes / No
Internet : Yes / No
Speaking Order : Yes / No

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TR.CMP.No.762 of 2022

S.SOUNTHAR, J.

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To

- 1.The Subordinate Court, Devakottai.
- 2.The Principal Family Court, Chennai.

TR.CMP.No.762 of 2022
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