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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

C O R A M

THE HONOURABLE MS.JUSTICE P.T.ASHA

TR.C.M.P.NOS.738 OF 2021 AND 902 OF 2021
AND
C.M.P.NOS.17864, 17866 AND 20215 OF 2021

Dr.K.Prabhu

... Petitioner in
Tr.C.M.P.No.738 of 2021

K.V.Preethika

... Petitioner in
Tr.C.M.P.No.902 of 2021

.Vs.

K.V.Preethika

... Respondent in
Tr.C.M.P.No.738 of 2021

Dr.K.Prabhu

... Respondent in
Tr.C.M.P.No.902 of 2021

PRAYER IN TR.C.M.P.NO.738 OF 2021:-

Transfer Civil Miscellaneous Petitions filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.155 of 2021 from the file of the learned Family Judge, Krishnagiri and transfer the same to the file of any other competent court other than Krishnagiri District in which H.M.O.P.No.155 of 2021 is pending.

PRAYER IN TR.C.M.P.NO.902 OF 2021:-

Transfer Civil Miscellaneous Petitions filed under Section 24 of C.P.C praying to transfer the proceedings in H.M.O.P.No.51 of 2021 on the file of Principal Sub Court, Thanjavur to the file of Family Court, Krishnagiri in order to try the same along with H.M.O.P.No.155 of 2021 pending therein.

For petitioner
in Tr.C.M.P.No.738 : Mr.T.Shanmugam
of 2021



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For Petitioner : M/s.Chitra Sampath
in Tr.C.M.P.No.902 Standing Counsel
of 2021 For Mr.T.S.Baskaran

For Respondent : M/s.Chitra Sampath
in Tr.C.M.P.No.738 Standing Counsel
of 2021 For Mr.T.S.Baskaran

For Respondent
in Tr.C.M.P.No.902 : Mr.T.Shanmugam
of 2021

COMMON ORDER

Since the parties in issue involved in both Tr.C.M.Ps are one and the same, a common order is being passed in the above matter.

2. Tr.C.M.P.No.738 of 201 is filed by the husband seeking to withdraw the petition for restitution of conjugal rights filed by the wife on the file of the Family Court, Krishnagiri in H.M.O.P.No.155 of 2021 to any other Court other than Krishnagiri District.

3. Tr.C.M.P.No.902 of 2021 has been filed by the wife seeking transfer of the divorce petition filed by the husband on the file of the Principal Subordinate Court, Thanjavur in H.M.O.P.No.51 of 2021, to the file of the Family Court, Krishnagiri, to be tried along with H.M.O.P.No.155 of 2021.

4. It is the case of the petitioner-husband in H.M.O.P.No.738 of 2021 that the father of the respondent-wife is a senior Advocate practicing at Krishnagiri, more particularly, before the Family Court and therefore, the petitioner was subjected to a lot of threats from his father-in-law and he fears for his life. He would therefore pray that H.M.O.P.No.155 of 2021 be withdrawn and transferred to a Court outside the Krishnagiri District.

5. The wife, in her petition in Tr.C.M.P.No.902 of 2021, would contend that the dispute between the parties had taken place, when she had given birth to twins, both of whom were girls. It is her case that she is now residing at Krishnagiri in her parents house along with her children. Her mother has undergone a tumor surgery and had suffered paralysis and is bedridden since then. Her father is taking care of her mother and she has a younger brother, who is studying in UP. Therefore, in these circumstances and considering the fact that she is still breast feeding her twins, it is very difficult for



her to travel to Thanjavur for every hearing. Therefore, she would seek to have the petition filed by the husband transferred to the file of the Family Court at Krishnagiri, where she had filed a petition for restitution of conjugal rights.

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6. Heard both sides and perused the materials available on record.

7. The wife, is admittedly living at Krishnagiri under the care and custody of her father along with her twins. The husband apparently is not maintaining his wife and children and three of them are taken care of by the wife's father. The husband has not been able to come forth with any proof to substantiate his allegation that he would be a target for physical harm for filing the petition by his wife's family members.

8. The prayer to send H.M.O.P.No.155 of 2021 to any other Court other than Krishnagiri District, cannot be countenanced for the reason that it is the Court having jurisdiction. If the matter is pending before the Family Court, then the presence of the parties is mandatory. It is also not denied that the husband has not been maintaining his wife and children.

9. In these circumstances, it would be in the interest of justice that the transfer petition filed by the wife be allowed and the proceedings pending before the Principal Sub Court, Thanjavur in H.M.O.P.No.51 of 2021 be withdrawn and transferred to the file of the Family Court, Krishnagiri, to be tried along with H.M.O.P.No.155 of 2021.

10. Considering the fact that the husband is a Doctor, his presence for every hearing is dispensed with, except for attending counselling sessions and for adducing evidence.

11. Accordingly, Tr.C.M.P.No.902 of 2021 is allowed and Tr.C.M.P.No.738 of 2021 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

srn



To

1. The Principal Subordinate Judge,
Thanjavur.
2. The Judge,
The Family Court,
Krishnagiri.
3. The Section Officer,
V.R. Section,
High Court, Madras.

+2ccs to Mr.T.S.Baskaran, Advocate, S.R.Nos.20768 & 20769

TR.C.M.P.NOS.738 OF 2021 AND
902 OF 2021 AND C.M.P.NOS.17864,
17866 AND 20215 OF 2021

SKM(CO)
PBS/21/04/2022