



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM:

TR.CMP. No.887 of 2022

and

CMP.No.15399 of 2022

P. Muthusamy

... Petitioner

Vs.

S.Sheela Shankari

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.575 of 2019 pending on the file of the Family Court, Salem District and transfer the same to the adjacent District's Family Court, near to the Salem District.

For Petitioner : Mr.Manusha Prem

For Respondent : Mr.C.Prabakaran

ORDER

The petitioner/husband has filed this transfer petition seeking transfer of HMOP.No.575 of 2019 for divorce filed by the respondent/wife pending on the file of the Family Court, Salem District, to any adjacent District's Family Court, near to the Salem District.



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2. According to the petitioner/husband, the brother of the respondent/wife is an Advocate and powerful personality in Salem. It was stated by the petitioner that respondent's brother was an advocate practicing at Salem and he used his influence to prevent lawyers from appearing for respondent and continuously obstructed him from appearing in court. It is also stated by the petitioner that he is a Physics Teacher and his role as a staff in the School is crucial and his availability in Dharmapuri is very much mandated. In the transfer petition, the petitioner/husband has also admitted that they have got 5 years old child who is in the custody of the respondent/wife.

3. A perusal of the affidavit filed by the petitioner would suggest that the respondent/wife is residing at Kurinji Nagar, Narayana Nagar Housing Board, Salem District, within the territorial limits of Family Court, Salem.

4. This transfer petition cannot be ordered merely on the averments that the respondent/wife is having a brother who is an advocate and he is a powerful personality in the locality. In the absence of any substantial



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material before the court, that the presence of the respondent's brother hampers the court trial, this court is not inclined to accept the contention made by the petitioner as a ground for transfer. Even as per the admission made by the petitioner, the respondent/wife is residing at Salem and she is having a child aged about 5 years. In such circumstances, if the matter is transferred out of the Salem District, it may not be convenient for the respondent/wife to attend the court hearings by undertaking travel to other district.

5. For the foregoing reasons, this court is not inclined to entertain this transfer petition. Accordingly, this Transfer Petition is dismissed.

6. The learned counsel for the petitioner has made a request seeking a direction to the Family Court, Salem, to dispose of H.M.O.P.No.575 of 2019 within the time frame.

7. Having regard to the fact that the petition for divorce filed by the wife is of the year 2019, this court is inclined to issue a direction to the Family Court, Salem, to dispose of the H.M.O.P.No.575 of 2019, within a



period of nine months from the date of receipt of a copy of this order.

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Consequently, connected miscellaneous petition is closed. No costs.

27.10.2022

Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

gv

To

The Family Court,
Salem District.



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S.SOUNTHAR.,J.

Gv

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