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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

Tr.C.M.P. No.795 of 2021

and

C.M.P.No.2453 of 2022

and

Tr.C.M.P.Nos.120 and 121 of 2022

and

C.M.P.N.18475 of 2021 and C.M.P.No.2450 of 2022

Tr.C.M.P. No.795 of 2021:

P.Iyda Rani

... Petitioner

-Vs-

C.Robert Wilson

... Respondent

Tr.C.M.P.No.120 of 2022:

C.Robert Wilson

... Petitioner

-Vs-

P.Iyda Rani

... Respondent

Tr.C.M.P.No.121 of 2022:

C.Robert Wilson

... Petitioner

-Vs-

P.Iyda Rani

... Respondent

PRAYER IN Tr.C.M.P. No.795 of 2021: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw I.D.O.P.No.58 of 2021 pending on the file of the Family Court at Nagercoil and to transfer the same to the I Additional Family Court at Chennai to be heard along with M.C.No.448 of 2021 and I.D.O.P.No.4536 of 2021.



PRAYER IN Tr.C.M.P.No.120 of 2022: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw D.O.P.No.4536 of 2021 pending on the file of the Principal Family Court, Chennai and to transfer the same to the Family Court, Kanyakumari District at Nagercoil.

PRAYER IN Tr.C.M.P.No.121 of 2022: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw M.C.No.448 of 2021 pending the I Additional Family Court, Chennai and to transfer the same to the Family Court at Nagercoil, Kanyakumari District at Nagercoil.

For Petitioner : Ms.N.Fidelia
in Tr.C.M.P. No.795 of 2021

Mr.N.Dilip Kumar
in Tr.C.M.P.Nos.120 and 121 of 2022

For Respondent : Mr.N.Dilip Kumar
in Tr.C.M.P. No.795 of 2021

Ms.N.Fidelia
Tr.C.M.P.Nos.120 and 121 of 2022

COMMON ORDER

Tr.C.M.P. No.795 of 2021 has been filed by the wife seeking transfer of I.D.O.P.No.58 of 2021 filed by the husband for divorce before the Family Court, Nagercoil, to the file of the I Additional Family Court, Chennai, to be heard along with M.C.No.448 of 2021 and I.D.O.P.No.4536 of 2021.

2.The petitioner would contend that marriage between herself and the respondent had been solemnized on 03.05.21993 at Zion Lutheran Church, Kanyakumari District. Out the wedlock, they had two children, namely, Asha Wilson and Sam Wilson. On 01.10.2009, her daughter attempted suicide and hed died on 20.10.2009. Thereafter, on 25.05.2020, her son also committed suicide and died on 28.05.2020. The respondent is doing the business of building construction and was addicted to alcohol. The petitioner was asked to stay at her parental home. Thereafter, the respondent has filed I.D.O.P.No.58 of 2021 on the file of the Family Court, Nagercoil, for divorce. The petitioner has filed M.C.No.448 of 2021 for maintenance and I.D.O.P.No.4536 of 2021 for restitution of conjugal rights.

3.The reasons for seeking the transfer are as follows:

1.The petitioner is living at Chennai with her old mother.



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2.The respondent husband has not provided any maintenance to the petitioner.

3.The distance between Chennai and Kanyakumari is too far and she cannot travel each time to attend the hearings.

4.The learned counsel for the respondent would submit that the petitioner is residing at Kanyakumari and she gave two complaints against the respondent and his father all of which reflect her address as Kanyakumari. Due to continuous harassment by the petitioner, the respondent suffered a huge loss in business and wound up his business at Chennai. Now the respondent is taking treatment for his ill health.

5.Heard the learned counsel appearing for the Petitioner and the learned counsel for the respondent and perused the papers.

6.The learned counsel for the respondent/husband would request that in the event of transfer being made his presence may be dispensed with for all hearings except for attending the counselling sessions and for adducing evidence.

7.It is informed that the husband is yet to pay maintenance to the wife. Therefore, in the interest of justice, Tr.C.M.P.No.795 of 2021 is allowed, withdrawing the proceedings in I.D.O.P.No.58 of 2021 on the file of the Family Court, Nagercoil and transferred to the file of the I Additional Family Court, Chennai, tried along with M.C.No.448 of 2021 and I.D.O.P.No.4536 of 2021 subject to the condition that the I Additional Family Court, Chennai, shall not insist on the presence of the respondent/husband for every hearing except for attending the counselling session and for adducing evidence. The learned Judge shall take up both OPs for hearing only after the disposal of M.C.No.448 of 2021.

In view of the orders passed in Tr.C.M.P.No.795 of 2021, Tr.C.M.P.Nos.120 and 121 of 2022 are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mps



To

1.The Principal Judge,
Family Court,
Chennai .

2.The I Additional Judge,
Family Court,
Chennai.

3.The Judge,
Family Court,
Kanyakumari District at Nagercoil.

+2cc to Mr.N.Fidelia, Advocate, S.R.No.24739 & 24740

+2cc to Mr.E.Sathiyaraj, Advocate, S.R.No.25208 & 25209

Tr.C.M.P. No.795 of 2021 &
C.M.P.No.2453 of 2022 &
Tr.C.M.P.No.120 and 121 of 2022
and C.M.P.N.18475 of 2021
and C.M.P.No.2450 of 2022

AJB (CO)
SB(16/06/2022)