



Tr.C.M.P.No.906 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

Tr.C.M.P.No.906 of 2022

and

C.M.P.No.15570 of 2022

Aaisha @ Anitha

... Petitioner

Vs.

MIR Mohammed Noorullah

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, praying to withdraw O.S.No.02 of 2022 from the file of the Family Court, Krishnagiri and to transfer the same to the file of the Family Court at Cuddalore.

For Petitioner : Mr.Krishnasamy Chinnasamy

For Respondent : Mr.R.Ganesan

ORDER

This transfer petition is filed seeking transfer of suit filed by the respondent seeking declaration that the marriage that had taken place between



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the petitioner and the respondent on 05.04.2017 was dissolved by irrevocable talaq hasan mode in O.S.No.02 of 2022 pending on the file of the Family Court, Krishnagari to the file of the Family Court, Cuddalore.

2. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the respondent.

3. According to the petitioner, she is residing at Cuddalore and she already filed a suit in O.S.No.1 of 2022 on the file of the Family Court, Cuddalore, seeking restitution of conjugal rights. She also averred that the distance between Cuddalore and Krishnagiri is 250 kms and as a lady, she finds it very difficult to undertake such a long travel to Krishnagiri to attend each and every court hearings. Therefore, she filed this transfer petition with the aforesaid prayer.

4. The learned counsel for the respondent seriously objected the transfer petition on the ground that the petitioner without any *bonafide* intention filed O.S.No.1 of 2022 seeking restitution of conjugal rights, just to harass the respondent.



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5. It is settled law that in cases involving matrimonial dispute, the preference shall be given to the convenience of the petitioner/wife.

6. In the case on hand, petitioner/wife is residing at Cuddalore and as a lady, she finds it very difficult to undertake such a long travel to Krishnagiri to attend each and every court hearings. Further, the suit for restitution of conjugal rights filed by the petitioner/wife in O.S.No.1 of 2022 is pending before the Family Court, Cuddalore and the suit seeking declaration that the marriage between the petitioner and the respondent was dissolved by irrevocable talaq hasan mode filed by respondent/husband in O.S.No.02 of 2022 is pending before the Family Court, Krishnagiri. If these two suits filed by the petitioner/wife and the respondent/husband are allowed to go on before two different courts, there is a likelihood of conflict of judicial verdicts. The issues involved in both the suits are one and the same. Therefore, in the interest of justice, both these suits have to be tried together.

7. Therefore, by taking into consideration the convenience of the petitioner/wife and also interest of justice, this Court is inclined to order the above transfer petition as prayed for.



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8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and

O.S.No.02 of 2022 pending on the file of the Family Court, Krishnagiri is withdrawn and transferred to the file of the Family Court, Cuddalore for joint trial with O.S.No.1 of 2022. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
dm



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To

WEB COPY

- 1.The Family Court,
Krishnagiri.
- 2.The Family Court,
Cuddalore.



WEB COPY



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S.SOUNTHAR, J.
dm

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