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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

Tr.CMP. No.906 of 2021  
and  
C.M.P.No.20290 of 2021

P.Latha ... Petitioner/Respondent.

Vs

S.Ravi Selvan ... Respondent/Petitioner.

PRAYER:

Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No.1434/2019 pending on the file of the Principal Family Court at Chennai and transfer the same to the Family Court at Srivilliputhur, Virudhunagar District.

For Petitioner : Mr. V.Sivalingam

For Respondent : Mr.P.Saravanan

ORDER

The Transfer Civil Miscellaneous Petition has been filed by the petitioner/wife seeking transfer of the proceedings for divorce filed by the respondent/husband pending in H.M.O.P.No.1434 of 2019 on the file of the Principal Family Court at Chennai to the Family Court at Srivilliputhur Virudhunagar District.

2. The petitioner would contend that marriage between herself and the respondent had been solemnized on 09.07.1995 at Madurai and out the wedlock, they had two sons. The elder son has completed his college education and the younger one is in the college. The petitioner at the time of her marriage was working as a lecturer in the Kalasilingam Polytechnic College, Krishnan Kovil, Virudhunagar. After her marriage at the request of the respondent, she had resigned from her job.

3. The petitioner would submit that she has been discharging her duties as a dutiful wife and while she has been living with the respondent under the same roof, she was shocked



to receive a petition for divorce from the Principal Family Court Chennai. Pending the proceedings, she was also sent out of her matrimonial home. In fact, before her being sent out from her matrimonial home, she and the respondent had been coming for the Court proceedings from the very same house. However, with the outbreak of the pandemic, they were unable to attend Court hearings and were staying at home.

4. The petitioner had contended that she had been taking care of the respondent and her children. However, the respondent threatened her and forced her to vacate the matrimonial home. The respondent had himself packed her things and sent it to her parent's house and had booked her flight ticket on 13.06.2020 and sent her back to Madurai.

5. The petitioner would submit that from June 2020, she has been attending the Court hearing at Chennai, all the way from Rajapalayam. She being a woman she has to take the assistance of someone to travel along with her. In her affidavit, the petitioner has stated that though the Family Court had directed the respondent to pay the maintenance and litigation expenses along with the travel expenses she has not received the same to date. Since it was very difficult for her to travel, the petitioner had come forward with the application for transfer. The said application is vehemently opposed by the Husband on the ground that the petitioner had attended 23 hearings from Rajapalayam without experiencing any difficulty and that the matter is now posted for the petitioner's evidence which could be concluded within 5 to 6 hearings.

6. A perusal of the counter would show that although, the Principal Family Court Judge had ordered the respondent herein to pay the sum of Rs.20,000/- per month to the petitioner which includes the travel and accommodation expenses from the date of the petition till the disposal of the main petition and the litigation expenses of Rs.2,00,000/- as a one-time payment to the petitioner, the respondent has been depositing the amount into the Court without paying it directly to the petitioner. Therefore, the compliance of the order is not in the letter and spirit of the order.

7. It is also contended by the petitioner in her affidavit that she has not received the maintenance and travel expenses as directed by the Principal Family Court in I.A.No.1 of 2021 and that she is not in a position to travel all the way to Chennai. This Court has also taken note of the fact that the husband has himself stated that the lady had travelled alone for 23 hearings from Rajapalayam to Chennai. From the petitioner's contentions it appears that she has appeared before the Court for 23 hearing without receiving the maintenance and travel expenses directly



from the respondent. Therefore, this Court after taking into account the fact that the petitioner is residing at Virudhunagar within the jurisdiction of the Family Court at Srivilliputhur, withdraws H.M.O.P. No. 1434 of 2019 from the file of the Principal Family Court at Chennai and transfers the same to the file of the Family Court at Srivilliputhur.

8. The learned Family Court Judge at Srivilliputhur shall continue the proceedings from the stage at which the same has been transferred. The learned counsel for the respondent/husband would contend that the petitioner/wife had refused to receive the maintenance and travel expenses given to her which compelled the respondent to deposit the same into the deposit of Court. The respondent/husband shall withdraw the said amount and draw a cheque in favour of the petitioner/wife and pay it up before the commencement of the proceeding before the Family Court, Srivilliputhur.

9. The Family Court Srivilliputhur shall commence the recording of the evidence of the wife who is the petitioner before this Court only after proof is shown that the respondent/husband has complied with the order in I.A.No.1 of 2021 in H.M.O.P.No.1434 of 2019 and paid the entire amount directly to the petitioner till the date on which the petition is transferred to the Family Court at Srivilliputhur and shall continue to comply with the order thereafter only so far as it relates to the monthly maintenance. The Family Court, Srivilliputhur shall not insist upon the presence of the respondent/husband. The learned Judge is directed to dispose of the above HMOP.No.1434 of 2019 on or before 30.06.2022.

10. The Transfer Civil Miscellaneous Petition is allowed with the above directions. If the entire maintenance amount has not been paid the proceedings in H.M.O.P. No.1434 of 2019 shall be kept in abeyance. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Judge,  
The Principal Family Court at Chennai.



2.The Judge,  
The Family Court at Srivilliputhur,  
Virudhunagar District.

COPY TO

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The Section Officer,  
VR Section,  
High Court, Madras-104.

+lcc to Mr.P.Saravanan, Advocate, S.R.No.12164

+lcc to Mr. V.Sivalingam, Advocate, S.R.No.11825

Tr.CMP. No.906 of 2021 and  
C.M.P.No.20290 of 2021

MG(CO)  
CT 17/03/2022