



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.No.885 of 2021

&

C.M.P.No.19816 of 2021

Rajeshwari

... Petitioner

Vs

Anand

... Respondent

Prayer: Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the F.C.O.P.No.180 of 2021 on the file of the Hon'ble Family Court, Namakkal and Transfer the same to the file of H.M.O.P.No.195 of 2021 on the file of Hon'ble Subordinate Court, Tiruchengode.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : No Appearance

ORDER

The wife has filed the above Transfer Civil Miscellaneous Petition seeking to transfer F.C.O.P.No.180 of 2021 from the file of the Family Court, Namakkal to the Subordinate Court, Tiruchengode to be tried along with H.M.O.P.No.195 of 2021 filed by her for restitution of conjugal rights. The respondent husband had filed F.C.O.P.No.180 of 2021 for divorce.

2. It is the case of the petitioner that she had been married to the respondent on 19.10.2018 and the marriage expenses were shared by both the parties. Gold and Silver articles were given to the petitioner by her parents and the petitioner would state that her father had died when she was a child and she had two sisters. Her elder sister was married to the respondent's elder brother and it is for this reason that the respondent's family had approached for the petitioner's hand. The respondent family on account of unfortunate incidents



was not ready to go ahead with the marriage. However, the respondent was keen on marrying the petitioner.

3. The petitioner thereafter married the respondent. Out of the wedlock a daughter was born to them. The petitioner would submit that the respondent was in the habit of consuming alcohol and on one occasion he came to home in an intoxicated state and attacked both the petitioner and their daughter. Thereafter, the petitioner was driven out of her matrimonial home and from then she is living with her mother.

4. The respondent was not ready to take back the petitioner despite several attempts made by the elders. Therefore, left with no other alternative she had filed the petition for restitution of conjugal rights in H.M.O.P.No.195 of 2021 on the file of the Subordinate Court, Tiruchengode.

5. The petitioner would submit that her mother is daily wage earner and she is already in a lot of financial strain since she had to bear the marriage expenses of all her three daughters. In this background, she is additionally burdened with the task of taking care of the petitioner as well as her two year old daughter. The respondent has not taken any steps to maintain his wife and his child. However, without doing so he has filed F.C.O.P.No.180 of 2021 on the file of the Family Court, Namakkal for divorce.

6. The petitioner would submit that since the matter is pending before the Family Court, Namakkal, she has to attend every hearing, which is not only a financial strain but also a great deal of mental strain since she has small child to be taken care of. The learned counsel appearing on behalf of the petitioner had reiterated the above contentions.

7. The respondent though served has not appeared either in person or through pleader.

8. Having heard the counsel for the petitioner and perusing the records the request for transfer appears to be justified one.

9. It appears that the respondent husband has not taken any steps to assist his wife and child. That apart, the petitioner has filed petition for restitution of conjugal rights before the Subordinate Court, Tiruchengode, where the presence of the respondent is not required for every hearing. However, the respondent has instituted proceedings on the file of the Family Court, Namakkal, where the presence of the parties for every hearing is imperative.



10. Under these circumstances, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.180 of 2021 pending on the file of the Family Court, Namakkal is withdrawn and transferred to the file of the Subordinate Court, Tiruchengode to be tried along with H.M.O.P.No.195 of 2021. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Family Court,
Namakkal.
2. The Subordinate Court,
Tiruchengode.

+1cc to Mr.Mr.W.Camyles Gandhi, Advocate, S.R.No.8184

Tr.C.M.P.No.885 of 2021

RSV(CO)
SU(21/02/2022)