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Tr.C.M.P.No.967 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

Tr.C.M.P.No.967 of 2022

and

C.M.P.No.16666 of 2022

Akila @ Kumar Jayakumari

... Petitioner

Vs.

Vijayakumar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908, praying to withdraw the HMOP No.88 of 2022 on the file of the Subordinate Court, Sathiyamangalam, Erode District and transfer the same to the file of II Additional Family Court, Chennai in lieu of the joint trial with the proceedings in H.M.O.P.No.3536 of 2022 on the file of II Additional Family Court, Chennai.

For Petitioner : Mr.P.Arunkumar

For Respondent : Mr.M.Purushothaman

ORDER

This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife seeking transfer of petition for divorce filed by the respondent/husband in H.M.O.P.No.88 of 2022, on the file of the Subordinate Court, Sathiyamangalam, Erode to the file of II Additional Family Court, Chennai



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

3. According to the petitioner/wife, she is residing at No.111/55, G-1, KothavalChavadi Street, Saidapet, Chennai and she had already instituted a petition for restitution of conjugal rights in H.M.O.P.No.3536 of 2022 on the file of the II Additional Family Court, Chennai.

4. The learned counsel for the respondent/husband opposed the transfer application on the ground that the petitioner/wife deliberately filed the petition for restitution of conjugal rights in H.M.O.P.No.3536 of 2022 with malafide intention to harass the respondent/husband.

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, the petitioner/wife is residing with her parents at No.111/55, G-1, KothavalChavadi Street, Saidapet, Chennai. Further, she instituted a petition for restitution of conjugal rights before the II Additional



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Family Court, Chennai.

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7. The issues involving in the petition for restitution of conjugal rights filed by the petitioner and the petition for divorce filed by the respondent are one and the same. If these two cases are allowed to go before two different Courts, there is a likelihood of conflict of judicial verdicts. Hence in the interest of justice, these two cases shall be tried together in a same Court.

8. In view of the facts and circumstances and taking into consideration the convenience of the wife and also the interest of justice, this Court is inclined to order the above transfer petition.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition for restitution of conjugal rights filed by the respondent/husband in H.M.O.P.No.88 of 2022, from the file of the Subordinate Court, Sathiyamangalam, Erode District, is withdrawn and the same is transferred to the file of the II Additional Family Court, Chennai, for joint trial along with H.M.O.P.No.3536 of 2022. No costs. Consequently, the connected civil miscellaneous petition is closed.

02.11.2022



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Index : Yes/No

Speaking Order : Yes/No

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S.SOUNTHAR, J.

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To

1. The Subordinate Court,
Sathiyamangalam,
Erode District.
2. The II Additional Family Court,
Chennai.

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and
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