



Tr.C.M.P.No.895 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.No.895 of 2021

&

C.M.P.No.20078 of 2021

R.Karthika

...Petitioner

Vs

R.Raja

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw and transfer the H.M.O.P.No.1338 of 2021 pending on the file of IV Additional Family Court, Chennai to Subordinate Judge, Poonamalle, Thiruvallur District.

For Petitioner : Mr.N.Ganesh

For Respondent : Mr.R.Ganesh Kumar



Tr.C.M.P.No.895 of 2021

WEB COPY

ORDER

The above petition is filed by the wife for transferring the petition in H.M.O.P.No.1338 of 2021 pending on the file of the IV Additional Family Court, Chennai to the file of the Subordinate Court, Poonamalle. The grounds on which the transfer is sought for are as follows:

(i)The petitioner has no source of income except the meagre salary she is earning now.

(ii)The petitioner has to take care of her infant and not in a position to travel to Chennai for every hearing.

2. The learned counsel for the respondent husband would submit that the petitioner wife has been set ex parte in H.M.O.P.No.1338 of 2021 and the petitioner has not filed any application for setting aside the said order. However, it is seen that



Tr.C.M.P.No.895 of 2021

WEB COPY

no ex parte order has been passed in the above petition and H.M.O.P.No.1338 of 2021 is still pending on the file of the IV Additional Family Court, Chennai.

3. In these circumstances, the learned counsel for the petitioner wife would submit that they are taking steps to file an application to set aside the ex parte order. On filing of such application, the respondent has agreed to give his no objection for allowing the said application. After the application is so allowed, the learned IV Additional Family Judge, Chennai shall withdraw and transfer the said HMOP to the file of the Subordinate Court, Poonamallee.

4. It is informed by the learned counsel for the respondent that the Subordinate Court, Poonamalle is insisting on the presence of the parties. It is rather strange that the Presiding Officer insists on the presence of the parties when it is not a Family Court and where the counsels are entering appearance on behalf of the parties. In case, this



Tr.C.M.P.No.895 of 2021

practise is in vogue, with reference to the instant case, the presence of the respondent shall be dispensed with except for attending counselling and for adducing evidence.

5. The Court shall bear in mind that the respondent husband is a physically challenged person being both deaf as well as dumb, therefore, adequate care shall be taken to ensure that he understands the proceedings before any orders are passed.

6. The petitioner wife shall file the application for setting aside the ex parte order within a period of two weeks from the date of receipt of a copy of this order, failing which the Transfer Civil Miscellaneous Petition shall automatically stand dismissed.

7. The Transfer Civil Miscellaneous Petition is allowed on the above lines. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

4/7



Tr.C.M.P.No.895 of 2021

09.03.2022

WEB COPY

kan

Index : Yes/No

Speaking order/non-speaking order

To

1.The IV Additional Family Court,
Chennai.

2.The Subordinate Judge, Poonamalle,
Thiruvallur District



WEB COPY



Tr.C.M.P.No.895 of 2021

P.T.ASHA, J.,

kan

Tr.C.M.P.No.895 of 2021



WEB COPY



Tr.C.M.P.No.895 of 2021

09.03.2022