



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Tr.C.M.P.No.891 of 2021

&

C.M.P.No.19954 of 2021

Sivapriya

...Petitioner

Vs

Sivakumar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the O.P.No.4196 of 2017 pending on the file of the VI Additional Family Court Judge, Chennai to be transferred to any other Family Court, Chennai.

For Petitioner : Ms.P.Srividhya

For Respondent : No Appearance

ORDER

The wife has filed this petition for transfer under Section 24 of the Code of Civil Procedure seeking transfer of H.M.O.P.No.4196 of 2017, filed by the husband for divorce on the file of the VI Additional Family Court, Chennai to any other Family Court, Chennai.

2. The respondent though served has not entered appearance.

3. The main ground on which the transfer is sought for is the insistence of the learned Judge in disposing of the said H.M.O.P without the respondent husband paying the maintenance as directed in I.A.No.4732 of 2018, wherein, the Court by order dated 19.11.2018 had ordered interim alimony of Rs.20,000/- per month to the petitioner and her children. Thereafter, the husband has challenged the said order by filing C.M.A.No.2371 of 2019, wherein, the amount was reduced to a sum of Rs.15,000/-.

4. The respondent husband has not paid a single penny and as on 14.09.2021, the arrears itself amounted to a sum of Rs.2,01,000/-. Without insisting upon the respondent to comply with the orders, the Court is proceeding to dispose of the main



HMOP on the ground that this Court has fixed a time frame for conclusion of the proceedings. The apprehension of the petitioner appears to be a genuine one.

5. In these circumstances, the learned Judge by not compelling the respondent to pay the maintenance by keeping in abeyance the proceedings in H.M.O.P.No.4196 of 2017 has justifiably caused an apprehension in the mind of the petitioner. Therefore, I am of the view that the proceedings should be transferred from the file of the VI Additional Family Court, Chennai to the file of the III Additional Family Court, Chennai.

6. Further, considering the non compliance of the order as directed by this Court in C.M.A.No.2371 of 2019, the learned Judge to whom H.M.O.P.No.4196 of 2017 is now transferred shall keep in abeyance the hearing of the HMOP till such time as entire arrears due under the above order is fully paid.

7. The Transfer Civil Miscellaneous Petition is allowed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To

1. The VI Additional Family Judge,
Chennai.
2. The III Additional Family Judge,
Chennai.

+1cc to Ms.P.Srividhya, Advocate SR.No.9444

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MT(CO)
GMY(11/03/2022)