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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

CORAM

THE HON'BLE Ms.JUSTICE P.T.ASHA

Tr.C.M.P.Nos.897 and 931 of 2021

Tr.C.M.P.Nos.897 of 2021

Janifa Nasreen

Vs

... Petitioner

Mohamed Ikhlas Maraicar

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the suit bearing O.S.No.04 of 2021 on the file of the Family Court, Nagapatinam and transfer the same to the Family Court at Karaikal and be tried along with O.S.No.6 of 2021 on the file of the Family Court, Karaikal.

For Petitioner : Mr.Perumbulivel Radhakrishnan
for Mr.S.P.Vijayaraghavan

For Respondent : Mr.C.R.Malarvannan

TR.CMP.No.931 of 2021:

Mohamed Ikhlas Maraicar

... Petitioner / 1st Defendant

Vs

1.Janifa Nasreen

... Respondent / Plaintiff

2.The Officer DE L Elat Civil,
Municipalite od Karaikal,
Karaikal,Puducherry.

... Respondent / 2nd defendant

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in O.S.No.6 of 2021, pending on the file of Family Court at Karaikal and transfer it to the file of the Family Court, Nagapatinam try along with the suit in O.S.No.4 of 2021.



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For Petitioner : Mr.C.R.Malarvannan
For Respondent : Mr.Perumbulivel Radhakrishnan
for Mr.S.P.Vijayaraghavan

C O M M O N O R D E R

Tr.CMP.No.897 of 2021 is filed seeking to withdraw the suit bearing O.S.No.04 of 2021 on the file of the Family Court, Nagapatinam and transfer the same to the Family Court at Karaikal and be tried along with O.S.No.6 of 2021 on the file of the Family Court, Karaikal.

Tr.CMP.No.931 of 2021 is filed seeking to to withdraw the case in O.S.No.6 of 2021, pending on the file of Family Court at Karaikal and transfer it to the file of the Family Court, Nagapatinam try along with the suit in O.S.No.4 of 2021.

2. The Tr.CMP.No.897 of 2021 is filed by the petitioner/wife seeking transfer of the suit in O.S.No.4 of 2021 filed by the respondent/husband seeking Restitution of Conjugal Rights with the petitioner from the file of the Family Court, Nagapattinam to the Family Court, Karaikal, where her suit in O.S.No.6 of 2021 for dissolution of marriage is pending. The husband in turn, filed Tr.CMP.No.931 of 2021, seeking to transfer the wife's suit from Karaikal to Nagapattinam.

3. Both the counsel were heard.

4. Considering the fact that the wife had filed the suit for dissolution at an earlier point in time and also taking into account the fact that the matter is pending before the Family Court, where her presence is required for every hearing, the interest of justice weighs heavily on the side of the wife to have the proceedings filed by her husband before the family Court in O.S.No.4 of 2021 transferred. She has also, in her affidavit filed in support of the petition, stated that she has to travel all the way to Nagapattinam and it would be impossible for her.

5. Considering the fact that she is practising the muslim customs whose religious faith does not encourage the women travelling by themselves she has to rely on her younger brother to accompany her for every hearing. Her brother is also not in a position to travel with her so frequently. In these circumstances, it would be in the interest of justice that, Tr.CMP.No.897 of 2021 filed by the wife is allowed and the Tr.CMP.No.931 of 2021 filed by the husband is dismissed.



6. Accordingly, the case in O.S.No.04 of 2021 on the file of the Family Court, Nagapatinam is withdrawn and transferred to the Family Court at Karaikal to be tried along with O.S.No.6 of 2021 on the file of the Family Court, Karaikal. The Family Court, Nagapattinam, is directed to transmit all the records in O.S.No.6 of 2021 to the Family Court, Karaikal, immediately, on receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pbl/ub

To

1. The Judge,
Family Court, Nagapattinam.
2. The Judge,
Family Court, Karaikal.

+1cc to Mr.S.P.Vijayaraghavan, Advocate, S.R.No.19132

Tr.C.M.P.Nos.897 and 931 of 2021

EV[co]
NSK 22/04/2022