



WEB COPY

Tr.C.M.P.No.996 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.996 of 2022

and

C.M.P.No.17034 of 2022

C.Rayappa Stephen @ Stephen

..

Petitioner

VS

J.Arokiamary

..

Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw the D.O.P.No.861 of 2020 on the file of Hon'ble Family Court at Coimbatore and to transfer the same to the file of the Hon'ble Sub Court at Gobichettipalayam, Erode District for further hearings.

For Petitioner : Mr.D.Senthilkumar

For Respondent : Mr.K.S.Karthik Raja



ORDER

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The transfer petition is filed to withdraw the D.O.P.No.861 of 2020 on the file of the Family Court at Coimbatore and to transfer the same to the file of the Sub Court at Gobichettipalayam, Erode District.

2. The marriage between the petitioner and the respondent was solemnized on 01.02.2009 as per the Christian Rites and Customs. From and out of the wedlock between the petitioner and the respondent, two children were born and now residing with the respondent / mother.

3. The respondent is now working as a Government School Teacher and initially she was working at Coimbatore and filed D.O.P.No.861 of 2020 for dissolution of marriage on the file of the Family Court, Coimbatore. Subsequently, the petitioner was transferred to Erode, wherein, there was a livelihood of threat to her by the petitioner / husband. In this regard, learned counsel for the respondent submits that a police complaint was filed, which is under enquiry. The respondent is temporarily residing at Erode at present and she has submitted a request transfer application to the



competent authorities of the Education Department to transfer to Coimbatore in the interest of the two minor children.

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4. Learned counsel for the petitioner made a submission that the respondent is, as of now, residing at Erode, nearby the residence of the petitioner / husband and therefore, the case at Coimbatore is to be transferred to Erode.

5. Learned counsel for the respondent placed certain serious allegations against the petitioner and furnished photocopies showing that the petitioner / husband has physically assaulted the respondent / wife.

6. This Court cannot go into the merits of the allegations raised by the respondent, which are to be enquired by the competent Police and to be adjudicated before the Family Court in the D.O.P proceedings.

7. However, the petitioner has not made out any *prima facie* case for the purpose of transferring the case, since the respondent has to take care of her two children, with the assistance of her parents.



8. This being the facts and circumstances, this Court is not inclined to consider the transfer petition and accordingly, the same stands dismissed.

There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

22.12.2022

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Index : Yes / No

Speaking order / Non-speaking order

To

1. The Family Court, Coimbatore.

2. The Sub Court, Gobichettipalayam, Erode District.



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S.M.SUBRAMANIAM, J.

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