



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

Tr.CMP. No.963 of 2021
and
C.M.P.No.21465 of 2021

S. Nithya ... Petitioner/Respondent.

Vs

R.Vivekanandan ... Respondent/Petitioner.

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP.No.110 of 2021 on the file of the Family Court, Cuddalore and Transfer the same to the Family Court, Thanjavur.

For Petitioner : Mr.G.Maniprabhu

For Respondent : M/s. Megan Law Firm

ORDER

The above application has been filed by the petitioner/wife seeking to withdraw the proceedings for divorce filed by the husband in H.M.O.P.No.110 of 2021 on the file of the Family Court Cuddalore and transfer the same to the Family Court, Thanjavur.

2. The reasons for seeking the transfer are as follows: She had been attending the hearing at the Family Court, Cuddalore continuously without fail, traveling about 169 Kms., back and forth. Her child is just 1 year 3 months old and she is finding it very difficult to travel all the way from Cuddalore to Thanjavur and some days she has been forced to return in the late hours. She is unemployed and the respondent/husband has not taken any steps to maintain either her or her son and therefore, she has to bear the travel expenses and also the expenses of her child. Her mother has undergone treatment for cancer and therefore her presence at home is required. Therefore, for these reasons she would now seek to have the matter transferred to the file of the Family Court at Thanjavur.



3. The respondent/husband has filed a counter in which he would submit that he had been assaulted by the respondent's father, mother and brother at the Cuddalore, All women police station during an enquiry and therefore, if this assault could happen at the place he is living, the situation would be worse if he has to travel to Thanjavur, which is the petitioner's home town. He would submit that he had undergone a great deal of harassment at the hands of petitioner and her parents. He would also submit that several complaints had been lodged by the petitioner therefore he would seek to have the matter retained at Cuddalore, Family Court.

4. Heard the learned counsel on either side.

5. The petitioner in her affidavit stated that she had been appearing before the Family Court, Cuddalore but now she is finding it a strain, considering the ill health of her mother and also the fact that she has to attend to her baby son who is just about a year and 3 months old. Another compelling reason is that the husband has not maintaining either her or her son.

6. In these circumstances, interest of Justice would be subserved if the petition filed by the husband in H.M.O.P.No.110 of 2021 is transferred to the file of the Family Court, Thanjavur. However, taking into account the apprehension caused by the respondent/husband and also on perusing the records submitted by him, a direction is issued to the Family Court Thanjavur, not to insist upon the presence of the respondent/husband for every hearing except for attending counselling sessions and for adducing evidences.

7. With the above direction, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.110 of 2021, pending on the file of the Family Court, Cuddalore is withdrawn and transferred to the file of the Family Court, Thanjavur. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Family Court,
Cuddalore.

2.The Family Court,
Thanjavur.

+1cc to M/s.McGan Law Firm, SR. No.17186

+2ccs to Mr.G.Maniprabhu, Advocate SR. No.17098

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AD (CO)
PR (04/04/2022)