



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

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THE HONOURABLE MS.JUSTICE P.T.ASHA

TR.CMP.NO.982 OF 2021

AND

C.M.P.NO.21668 OF 2021

S.R.Janani

...Petitioner / Respondent

Vs

C.N.Kirubahar

...Respondent / Petitioner

PRAYER : Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the F.C.O.P.No.232 of 2021 on the file of the Hon'ble Family Court, Namakkal and transfer the same to Hon'ble Subordinate Judge Court, Avinashi

For Petitioner : Mr.Deepan Uday

For Respondent : No Appearance

ORDER

The petitioner is the wife who is the respondent in the petition F.C.O.P No.232 of 2021, instituted by the husband on the file of the Family Court Nammakal, for divorce. She seeks to have the application transferred to the file of the Subordinate Court, Avinashi.

2. The following are the grounds on which the above request is made:

i) The petitioner has filed the Domestic Violence complaint which is pending on the file of the Judicial Magistrate Court, Avinashi.

ii) The amended Act is in favour of the women in cases of disputes in Hindu Marriages and the respondent has deliberately filed the divorce petition before the Family Court at Namakkal to harass her.

iii) She is residing at Tirupur.

3. The respondent who has been served with the notice has not chosen to appear either in person or through a pleader, and therefore, this Court has proceeded to hear the learned counsel for the petitioner.



4. Perused the records.

5. The records would show that the respondent/wife has already initiated proceedings before the Judicial Magistrate, Avinashi in DVA No.6 of 2021. This proceeding had been initiated in October 2021 and, thereafter, the husband has come forward to file this petition for divorce in November 2021, on the file of the Family Court, Nammakal.

6. The petitioner in the petition before the Judicial Magistrate, has averred that the respondent has not been giving her any maintenance. It is also seen that the petition for divorce is pending before a Family Court where the presence of the parties are mandatory. The husband who has not cared to maintain the wife cannot seek to drag her for every hearing before the Family Court at a place which is far way from the place of residence of the respondent/wife.

7. Considering the above and also the fact that under Section 19, the place of residence of the respondent wife would also confer jurisdiction in the case of disputes under the Hindu Marriage Act. The Transfer Civil Miscellaneous Petition is allowed, and the proceedings in F.C.O.P. No.232 of 2021 is withdrawn from the file of the Family Court Nammakal and transferred to the file of the Subordinate Judge Avinashi. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Judge,
The Family Court,
Nammakal.

2.The Subordinate Judge,
Avinashi.

+1cc to M/s.Deepan Uday, Advocate Sr.No.9081

Tr.CMP. No.982 of 2021

SR(CO)
RVM(28/02/2022)