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Tr.C.M.P.No.1266 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.1266 of 2022

and

C.M.P.No.21437 of 2022

R.P.Senthil Kumar

... Petitioner/Petitioner

Vs.

D.R.Nithya

... Respondent/Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw the FCOP No.58 of 2020 from the Ld.Family Court, Dharmapuri and to transfer the same to Ld.Family Court, Krishnagiri or other Court having competent jurisdiction other than the Court at Dharmapuri.

For Petitioner

: Mr.N.Manoharan



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ORDER

The transfer petition is filed to withdraw FCOP. No.58 of 2020 from the file of the Family Court Dharmapuri and transfer the same to the Family Court Krishnagiri.

2.The marriage between the petitioner and the respondent was solemnized on 31.08.2011 as per Hindu rites and customs. Due to misunderstandings, the petitioner and the respondent are living separately. A female child is born out of the wedlock between the petitioner and the respondent and now she is living with the respondent mother. The respondent is now residing along with her parents in Dharmapuri. The petitioner filed FOCP No.58 of 2020 for restitution of conjugal rights.

3.The grievance of the petitioner is that the father of the respondent wife is a practicing lawyer in Dharmapuri District Court premises, and therefore, he is facing frequent troubles in the court premises, more so, during the course of the proceedings in the Court Hall. It is contended that the father of the respondent used to come with a group of his juniors and



friends to the court premises and create scenes. He is attempting to create fear in the mind of the petitioner and therefore, the petitioner is not in a position to participate in the Court proceedings in a peaceful manner. The learned counsel for the petitioner states that since the father of the respondent is a practicing lawyer, the case is to be transferred to Family Court Krishnagiri.

4.This Court is of the considered opinion that the same scene, if at all true, as stated by the petitioner, may be created even before the Family Court at Krishnagiri also. Creating an unwanted atmosphere by any person during the Court proceedings at no circumstance be encouraged by the Courts. If such grounds are accepted for transferring the case, then every person will raise such apprehensions for the purpose of transferring the case from one Court to another Court. Transfers have to be made only on genuine grounds and in the interest of justice and also to avoid multiple trials.

5.Lawyers may have several litigations of their own and mere apprehension in this regard would be insufficient to transfer the case from one Court to another Court. Even if such cases are transferred, the lawyers,



through their friends, may create similar problems in the transferred Court also. Thus, the solution would be to initiate action if any misbehaviour or otherwise is noticed. The judicial officers are expected to control the court room proceedings at all circumstances. If any lawyer misbehaved with colleagues, witnesses, or otherwise, the Judicial Officer concerned is empowered to initiate all further actions in accordance with the law. A lawyer even in his personal case is expected to respect the Court proceedings. In the event of failure, the aggrieved person can approach either the Bar Council for initiation of action or the appropriate authority for further action. On the contrary, High Court cannot simply transfer a case based on mere apprehensions.

6.Trust in the Judicial system is the hallmark and unnecessary transfers will create doubt in the minds of the people regarding the capacity of the Judicial Officers to deal with the case where a lawyer becomes a party to the litigation. Every litigant is equal including a lawyer becoming a litigant. Thus, the transfer cannot be a way out of this kind of problem and the Judicial Officer has to control the court proceedings and provide equal opportunity to all the parties and decide the matter impartially and in



accordance with the law. It is needless to state that irrespective of professional status, a litigant is to be treated as a litigant. Just because a litigant is a lawyer practicing in the court premises, no advantage can be extended to him by any Court, and whenever he participates in the court proceedings as a litigant, he must be treated as a litigant and not beyond that. In the event of any undue advantage or misbehavior or misconduct is noticed by the Judicial Officer concerned or if any threat or otherwise is given to the opposite party, then all actions are to be initiated against the persons concerned without any hesitation.

7. In the present case, no doubt, it is a matrimonial matter wherein certain issues are dealt with emotionally. Thus, the respondent wife or her father who is a practicing lawyer, is expected to respect the Court proceedings at all circumstances and defend their case by following the procedures as contemplated and by availing the opportunities to be provided by the Courts concerned. The petitioner is also free to contest his case through his lawyer or in person, as the case may be, by respecting the other side and the court proceedings. Mutual respect is essential in court proceedings and it is the duty of the lawyer, not only towards the Court but



also to respect the colleagues and the litigants. This being the professional ethical standards contemplated under the Bar Council of India rules, the proceedings are to be conducted in the manner known to law.

8. With these observations, this Court is of a considered opinion that both the petitioner and the respondent shall conduct their proceedings in a peaceful manner, without causing any hindrance to the Court proceedings.

9. That apart, the C.R.P. No.4093 of 2022 filed by the very same petitioner, challenging the order allowing the petitioner to examine the said advocate as a witness is dismissed and thus no further consideration is required and consequently the transfer petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2022

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Index : Yes

Speaking order

To



Tr.C.M.P.No.1266 of 2



1. Ld. Family Court, Dharmapuri

2. Ld. Family Court, Krishnagiri



WEB COPY

Tr.C.M.P.No.1266 of 2



S.M.SUBRAMANIAM, J.

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Tr.C.M.P.No.1266 of 2022

13.12.2022