



Tr.C.M.P(MD)No.164 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.164 of 2022

and

C.M.P(MD) Nos.3023 & 3025 of 2022

B.Meenakshi

... Petitioner

-Vs-

T.Balathandayutham

Rep by his Special Power of Attorney

Raman Mariappan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.7 of 2021 on the file of the Family Court, Tanjore and transfer the same to the Family Court, Madurai.

For Petitioner : Mr.Niranjan S.Kumar

For Respondent : Mr.G.Aravinthan

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the suit in O.S.No.7 of 2021, from the file of the Family Court, Thanjavur to the Family Court, Madurai.



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2.The respondent, who is the husband of the petitioner filed a suit in O.S.No.7 of 2021 as against the petitioner/wife, under Section 7(C) of the Family Courts Act, for declaration and for permanent injunction. At present the respondent is residing at Dubai and he appointed a Power of Attorney to represent him in the suit. Since the wife is a resident of Madurai, she filed this Transfer Civil Miscellaneous Petition to transfer the suit in O.S.No.7 of 2021, from the file of the Family Court, Thanjavur to the Family Court, Madurai, on the ground that she was assaulted by the respondent on three occasions.

3.The learned counsel appearing for the petitioner submits that the respondent himself has contested the suit only through his power agent. The petitioner is having a special child and hence she finds it very difficult to travel such a long distance from Madurai to Thanjavur to attend the court proceedings at Thanjavur.



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4.The learned counsel appearing for the respondent submits that since all the properties mentioned in the suit are cited at Thanjavur and Pudukkottai, the jurisdiction lies only in the Family Court, Thanjavur. Therefore, there is no necessity for transferring the suit from the Family Court, Thanjavur to the Family Court, Madurai. He further relied upon the judgment of this Court in ***N.Sundar and N.Chandrasekaran Vs. N.Suresh Babu and C.Muruganandham***, reported in (2013) 5 LW 704, wherein, it was held as follows:

“17.It is not in dispute that the Principal District Court, Thanjavur has got territorial and pecuniary jurisdiction, to try the partition suit. Hence, in the absence of any statutory bar, merely, based on the inconvenience faced by the petitioners/defendants, they cannot seek transfer of the case from the Principal District Court, Thanjavur to this Court, under Section 24 of the Code of Civil Procedure, in the light of the decisions referred to above.””



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5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The respondent has filed the above suit for declaration with regard to the suit schedule properties and for a consequential injunction before the Family Court, Thanjavur. Admittedly, the suit schedule properties stand in the name of the respondent. The petitioner is working at Dubai. He is contesting the suit through his power agent. On the other hand, the petitioner is having a special child and she finds it very difficult to appear before the Family Court, Thanjavur for each and every hearing as she is a resident of Madurai.

7. In view of the above, this Court is inclined to transfer the suit from the file of the Family Court, Thanjavur to the Family Court, Madurai. Accordingly, this transfer civil miscellaneous petition stands allowed. The suit in O.S.No.7 of 2021, on the file of



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the Family Court, Thanjavur is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The learned Judge, Family Court, Thanjavur is directed to transmit the entire records to the Family Court, Madurai forthwith and the learned Judge, Family Court, Madurai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition are closed.

16.12.2022

Index : Yes/No

Internet : Yes/No

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To

- 1.The Family Court, Thanjavur.
- 2.The Family Court, Madurai.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

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