



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P. (MD) Nos.238 & 239 of 2021

and

C.M.P. (MD) Nos.4470 & 4528 of 2021

Tr.C.M.P. (MD)No.238 of 2021

M.Subashri @ Pavithra ... Petitioner/Respondent
-vs-
V.Karthick ... Respondent/Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the case in G.W.O.P.No.38 of 2021 pending on the file of the Principal District Court, Trichy and transfer the same to the file of the Principal District Court, Thanjavur.

Tr.C.M.P. (MD)No.239 of 2021

M.Subashri @ Pavithra ... Petitioner/Respondent
-vs-
V.Karthick ... Respondent/Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the case in HMOP.No.29 of 2021 pending on the file of the Principal Subordinate Court, Trichy and transfer the same to the file of the Family Court, Thanjavur to try along with HMOP.No.66 of 2021.

For Petitioner : Mr.N.Tamilmani
(in both Tr.CMPs)

For Respondent : Mr.M.Pitchaimuthu
(in both Tr.CMPs)

COMMON ORDER

The above two transfer civil miscellaneous petitions have been filed by the wife. (i)TR.C.M.P(MD)No.238 of 2021 to transfer G.W.O.P.No.38 of 2021 on the file of the Principal District Court, Trichy to the file of Principal District Court, Thanjavur (ii) TR.C.M.P(MD)No.239 of 2021 to transfer HMOP No.29 of 2021 pending on the file of the Principal Sub Court, Trichy to the Family Court at Thanjavur to be tried along with HMOP No.66 of 2021 filed by her before the said Court.

2.The petitioner married the respondent on 01.06.2014 and out of this wedlock, they have been blessed with two children, a

<https://hcservices.ecourts.gov.in/hcservices/>



daughter born on 06.04.2015 and a son born on 30.11.2016. After the birth of the two children, the respondent's attitude towards the petitioner had undergone a total change and in the month of September, 2017, he had compelled her to go to her parents house and stay with the children as he had some work pressure. Believing his words, she had also proceeded to stay at her parents place along with children from September, 2017. Whenever the petitioner requested the respondent to take them back, he would seek some more time and the petitioner had believed her. However, to her utter surprise and shock, she was served with the notice from the Principal Subordinate Court, Trichy, in HMOP No.29 of 2021, which is a petition filed by the respondent/husband for divorce. The petition has been filed with absolutely false allegations. She would submit that she has filed a petition for restitution of conjugal rights before the Family Court, Thanjavur and the matter was posted for appearance of the respondent. Therefore, she sought to have the proceeding in HMOP No.29 of 2021 transferred to the file of the Family Court at Thanjavur. In her petition, she had contended that it is very difficult for her to attend the hearing of the case at Trichy.

3.A perusal of GWOP No.38 of 2021 would show that the children are living with respondent and not with the petitioner as falsely stated in her affidavit. Considering the fact that the children are living at Trichy, the petition in GWOP 38 of 2021 has to definitely be filed only in the place which is the permanent residence of the minor. Therefore, Tr CMP No.238 of 2021 has to definitely be rejected.

4.In view of the above discussion, Tr.C.M.P(MD) No.239 of 2021 is allowed and the proceedings in HMOP No.29 of 2021 now pending on the file of the Principal Subordinate Judge, Trichy is withdrawn and transferred to the file of the Family court at Thanjavur to be tried along with HMOP No.66 of 2021. Considering the fact that the respondent/husband is taking care of the children, his presence for all the hearings is dispensed with and he shall appear before the trial Court only for adducing evidence or for conciliation is so directed. Accordingly, Tr.C.M.P(MD) No.238 of 2021 is dismissed and Tr.C.MP(MD) No.239 of 2021 is allowed as stated supra. No costs. Consequently, connected miscellaneous petitions are closed.

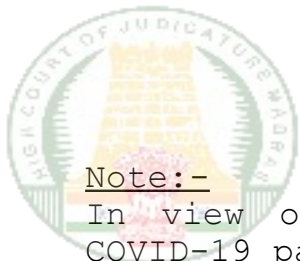
Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Principal District Judge,
Trichy.

2.The Principal District Judge,
Thanjavur.

3.The Judge, Family Court, Thanjavur.

4.The Principal Subordinate Judge, Trichy.

+2 CC to M/s.N.TAMILMANI, Advocate (SR-621 & 622[F] dated 06/01/2022)

Tr.C.M.P. (MD) Nos.238 & 239 of 2021
and
C.M.P. (MD) Nos.4470 & 4528 of 2021
Dated: 06.01.2022

se (CO)
TR(01.02.2022) 3P 7C