



CRP(MD)No.1221 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

CORAM

THE HON'BLE Mr. JUSTICE B.PUGALENDHI

C.R.P(MD)No.1221 of 2021

and C.M.P(MD)Nos.6978 and 6980 of 2021

- 1.Dr.Kirubanantha Sarathy
- 2.N.Ramachandravalli
- 3.Krishnamoorthy
- 4.Saravanakumar
- 5.Sathiya Bama
- 6.Menaka
- 7.premalatha

.... Petitioners/Respondents 1, 3 to 8

Vs.

- 1.R.Sarojini
- 2.Minor K.S.Deepak Karthikeyan
(Minor is represented through his mother and
natural guardian, the first respondent)

... Respondents/Petitioners

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India to withdraw the petition in D.V.C.No.35 of 2020 from the file of the Judicial Magistrate, Additional Mahila Court, Thanjavur and to transfer the same to the file of any competent court at Madurai.

For Petitioners : Mr.J.Bharathan
For Respondents : Mr.G.Karuppasamy Pandian



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ORDER

This Civil Revision Petition is filed to transfer the petition filed under the Domestic Violence Act in D.V.C.No.35 of 2020, which is pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Thanjavur to any competent court at Madurai.

2. The first respondent/wife has initially filed the D.V.C proceedings before the Judicial Magistrate No.1, Thanjavur, against the petitioner and the father of the petitioner under Sections 12, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005. Now it is pending in D.V.C.No.35 of 2020 on the file of the Judicial Magistrate, Additional Mahila Court, Thanjavur.

3. The learned counsel for the petitioners submits that the first petitioner/husband is working as Lecturer in Syed Ammal Engineering College, Ramanathapuram and the first respondent/wife is working as the Assistant Professor in St.Joseph Engineering College, Thanjavur and their



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marriage was solemnized at Thanjavur on 06.02.2014. The second respondent was also born to them out of their wedlock.

4. After some time, there was misunderstanding between the spouses and the first respondent left the matrimonial home. Due to that, the petitioner/husband has filed an application for restitution of conjugal rights before the Subordinate Court, Ramanathapuram in H.M.O.P.No.109 of 2017. However the same was withdrawn and they joined together for some time.

5. Again dispute arose between the parties. Thereafter, they have knocked the doors of the courts and filed petition after petition as mentioned below:

- The first petitioner filed a divorce petition in H.M.O.P.No.167 of 2018 before the Subordinate Court, Ramanathapuram on the ground of cruelty and desertion.
- The first respondent has filed a transfer application in Tr.C.M.P. (MD)No.30 of 2019 before this Court to transfer H.M.O.P.No.167 of



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2018 from the file of the Subordinate Court, Ramanathapuram to the file of the Subordinate Court, Thanjavur. This Court, by order dated 14.03.2019, transferred H.M.O.P. proceedings to the file of the Principal Subordinate Court, Madurai and now the same is pending in H.M.O.P.No.32 of 2019.

- Thereafter, the first respondent/wife has filed an application for restitution of conjugal rights before the Family Court, Thanjavur in F.C.O.P.No.84 of 2020.
- The first petitioner/husband has filed Tr.C.M.P.No.199 of 2020 before this Court to transfer F.C.O.P.No.84 of 2020 from the file of the Family Court, Thanjavur to the file of the Principal Subordinate Court, Madurai, to be heard along with H.M.O.P.No.32 of 2019, which is already pending before the Principal Subordinate Court, Madurai.
- The first petitioner/husband has also filed Tr.C.M.P.No.234 of 2020 to transfer H.M.O.P.No.32 of 2019 from the file of the Principal Subordinate Court, Madurai to the file of the Family Court, Thanjavur to be heard along with F.C.O.P.No.84 of 2020, which is already.



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pending before the Family Court, Thanjavur to the Principal Subordinate Court, Madurai.

- This Court allowed the application filed by the first petitioner/ husband and dismissed the application filed by the first respondent/ wife. Consequent thereof, F.C.O.P.No.84 of 2020 was ordered to be withdrawn from the file of the Family Court, Thanjavur, and to be transferred to the file of the Principal Subordinate Court, Madurai.

6. Pointing out all the above proceedings, the learned counsel for the petitioners prays before this Court that D.V.C proceedings which is pending before the Judicial Magistrate/ Additional Mahila Court, Thanjavur in D.V.C.NO.35 of 2020 may also be transferred to any of the court at Madurai. He further submits that the entire family members are arrayed as the respondents. The second petitioner is the mother of the first petitioner and the petitioners 3 to 6 are the brothers and sisters of the first petitioner and 7th petitioner is the wife of the third petitioner. Even at the time of marriage, his brothers and sisters got married and they were living separately. Even then all the family members are added as parties in D.V.C proceedings.



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7. The learned counsel for the respondents submits that the D.V.C proceedings was filed in the year 2019 and the trial itself would be over in one or two month time. Moreover the second respondent/ second petitioner in D.V.C proceeding is a special child and the first respondent finds it difficult to maintain the special child and to appear before the courts at Madurai.

8. This Court considered the rival submissions made on either side and perused the materials available on record.

9. The grievance of the petitioners is that the entire family members are unnecessarily added as parties in D.V.C proceedings initiated by the first respondent and all other proceedings connected between them are pending before the courts at Madurai and it could be appropriate to transfer the proceedings which is pending in D.V.C.No.35 of 2020 pending on the file of the Judicial Magistrate, Additional Mahila Court, Thanjavur, also to any of the court at Madurai.



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10. D.V.C proceedings has been initiated in the year 2019. In view of the answer given by the Full Bench in *Arun Daniel and others vs. Suganya* reported in [2022 SCC OnLine Mad 5435], the proceedings under D.V.C is termed as civil proceedings and it is only an enquiry not a trial and therefore, the presence of the parties before the trial court is not required. The petitioners need not appear before the concerned Judicial Magistrate Court for the proceedings, provided, if they are represented through a counsel. If any of the petitioners are having any grievance that they have been unnecessarily added to D.V.C proceedings, it is open to the petitioners to file an application before the concerned Judicial Magistrate Court to delete them as parties. If any adverse order has been passed they are still having a remedy before the Sessions Court.

11. Now, it is reported that the second respondent/second petitioner in D.V.C No.35 of 2020 is a special child and therefore, this Court is not inclined to transfer the D.V.C proceedings. However, the trial court is directed to conclude D.V.C No.35 of 2020 as expeditiously as possible,



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preferably within a period of four months from the date of receipt of a copy of this order.

12. With the above observation and direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

02.12.2022

Index : Yes/No
Internet : Yes/No
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To,
1. The Judicial Magistrate, Additional Mahila Court, Thanjavur
2. The Section Officer, V.R. Section, Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

CM

C.R.P(MD)No.1749 of 2022
and C.M.P(MD)No.7677 of 2022

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