



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2022

CORAM:

THE HONOURABLE **MS.JUSTICE P.T.ASHA**

Tr.C.M.P. (MD) No.592 of 2021

and

C.M.P. (MD) No.10629 of 2021

Selvakumar ... Petitioner/ Respondent

-vs-

Prabha ... Respondent/ Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw F.C.O.P.No.19 of 2021 on the file of the Family Court, Ariyalur and transfer the same to the file of the Subordinate Court, Lalgudi, to be tried along with H.M.O.P.No.114 of 2021.

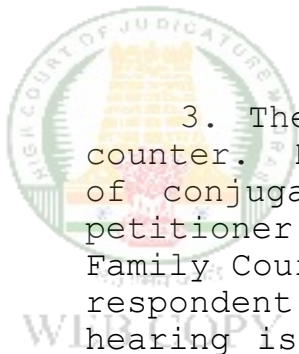
For Petitioner : Mr.T.Lenin Kumar

For Respondent : No appearance

ORDER

The husband is the petitioner seeking to transfer F.C.O.P.No.19 of 2021 by the respondent wife on the file of the Family Court, Ariyalur to the Subordinate Court, Lalgudi to be tried along with H.M.O.P.No.114 of 2021 pending therein.

2.The petitioner would seek to have this transfer on the ground that the petitioner and the respondent were living happily and though the respondent used to frequently quarrel with him, however there was no major dispute between them. At this juncture, the respondent had conceived and his in-laws, particularly the respondent's parents and her brother-in-law insisted that the respondent abort the baby. However, the respondent without consulting the petitioner, had proceeded to abort her pregnancy and thereafter left for her parental home on 07.11.2020. She had lodged the above petition for divorce in F.C.O.P.No.19 of 2021 before the Family Court, Ariyalur.



3. The petitioner herein had entered appearance and filed his counter. He had also filed H.M.O.P.No.114 of 2021, for restitution of conjugal rights before the Subordinate Court, Lalgudi. The petitioner would state that the Subordinate Court, Lalgudi and the Family Court, Ariyalur are equi-distance from the petitioner and the respondent's home. While, the presence of the parties for every hearing is mandatory before the Family Court, a similar mandate is not there when the matter is pending before the Subordinate Court. Therefore, the petitioner had come forward with the present petition before this Court.

4. Though the respondent had been served with notice, she had not appeared before the Court either in person or through a counsel. The notice has been served on her as early as on 17.12.2021. Today, when the matter was listed before this Court also there was no representation. Therefore, the Court had proceeded to hear the learned counsel for the petitioner and pass orders.

5. The learned counsel for the petitioner reiterated the contents of the petition, primarily, as the reason for seeking the transfer. The Subordinate Court, Lalgudi, was also at the same distance as the Family Court, Ariyalur, both for the petitioner as well as the respondent. As rightly contended by the petitioner, the presence of the parties for every hearing is mandatory in the Family Court. This causes a considerable amount of disturbance in the daily routine of the parties. Therefore, in the interest of both the parties, if the matter is transferred to the Subordinate Court where their presence for every hearing is not required, and the counsels would take care of the proceedings on other dates and it would suffice if the parties appear for adducing evidence.

6. Accordingly, this Transfer Civil Miscellaneous Petition stands allowed for the above reasons. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pnn

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 Subordinate Judge, Lalgudi.

2.The Judge, Family Court, Ariyalur.

Tr.C.M.P. (MD) No.592 of 2021 and

C.M.P. (MD) No.10629 of 2021

Dated: 01.02.2022

RD(21.02.2022) 3P 3C