



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM:

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

Tr.C.M.P. (MD) No.601 of 2021

and

C.M.P. (MD) No.10854 of 2021

Saraladevi

... Petitioner/ Respondent

-vs-

Sampathkumar

... Respondent /Petitioner

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the HMOP.No.163 of 2021 from the file of the Family Court, Pudukottai and transfer the same to the Family Court, Madurai or any Court of competent jurisdiction in Madurai.

For Petitioner : Mr.C.Masilamani

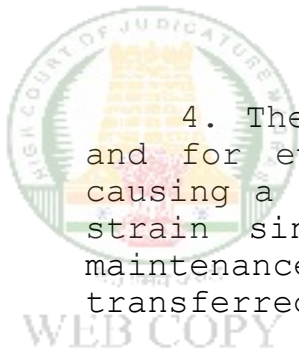
For Respondent : No appearance

ORDER

The petitioner/wife seeks to have the petition for divorce filed by the husband in H.M.O.P.No.163 of 2021, withdrawn from the file of the Family Court, Pudukottai and transferred to the Family Court at Madurai.

2. The case of the petitioner is that initially, her husband, the respondent herein had filed H.M.O.P.No.56 of 2009 on the file of Subordinate Court, Pudukottai and the petitioner herein had filed a Transfer petition, accordingly, the H.M.O.P. was transferred to the file of the Sub Court, Sivagangai and renumbered as H.M.O.P.No.11 of 2010. This petition was dismissed and the respondent/husband challenged the same by filing a H.M.C.M.A.No.6 of 2011 before the District Court, Sivagangai. The appeal was also dismissed on 22.03.2013. Thereafter, the petitioner had requested the respondent to take her back. However the respondent was unwilling to take her back and had threatened her to give consent for a mutual divorce.

3. After the dismissal of the appeal, the respondent and the petitioner rejoined on 31.08.2014. However, the respondent, listening to his family members, did not evince much interest in family life. Added to that, he also was abusing the petitioner herein. Since the husband was not taking any steps to co-habit with her, she had sought the help of her elders and also lodged a complaint before the police authorities. Thereafter, the respondent had sent back the petitioner to her parental home on 08.12.2019 and the respondent / husband filed yet another application in H.M.O.P.No.220 of 2020 for judicial separation through divorce. The said petition is filed before the Family Court at Pudukottai.



4. The petitioner would submit that she is residing at Madurai and for every hearing she has to travel to Pudukottai which is causing a great deal of physical strain on her as well as financial strain since, the respondent has not taken any steps to give maintenance to her. Therefore, she would seek to have the matter transferred to the file of the Family Court, Madurai.

5. The respondent, though served, had not entered appearance in person or through counsel. Therefore, the Court proceeded to hear the Transfer Civil Miscellaneous Petition in his absence.

6. Heard the learned counsel for the petitioner who has reiterated the reasons already stated in the petition.

7. Considering the fact that sufficient reasons have been given and particularly, since the husband has not paying maintenance to the wife and further the matter is before the Family Court where the appearance of the parties for every hearing is mandatory, I am of the view that in the interest of justice, the petition in H.M.O.P.No.163 of 2021 pending on the file of the learned Judge, Family Court, Pudukottai, be withdrawn and transferred to the file of the learned Judge, Family Court, Madurai.

8. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-II)

// 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 Judge, Family Court, Pudukottai.
- 2.The Judge, Family Court, Madurai.

Tr.C.M.P. (MD) No.601 of 2021 and
C.M.P. (MD) No.10854 of 2021

Dated: 21.01.2022

RD(04.02.2022) 2P 3C

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