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Tr.CMP No.30 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

TR.CMP No.30 of 2023

and

C.M.P.No.1043 of 2023

Sophia P Mercy

.... Petitioner

-Vs-

S.D.Gaxton

.... Respondent

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw IDOP No.81 of 2019 on the file of the V Additional Family Court, Chennai and transfer the same to the file of the Family Court at Principal District Court, Nilgiris District.

For Petitioner : Mr.R.Manoranjitham

For Respondent : M/s.A.Arulmozhi

ORDER

The Revision petitioner herein is the petitioner in IDOP No.81 of 2019 before the learned V Additional Family Court, Chennai, for seeking divorce, and filed a petition under Section 10(1) (x) of the Indian Divorce



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Act, 32 of the Divorce Act, and the respondent also filed a divorce petition on the file of the same trial Court in O.P.No.1969 of 2021, under Section 32 of the Divorce Act.

2. The petitioner got married on 17.12.2010, which was solemnized at YMCA Hall, Vepery, Chennai, as per Christian rituals and Customs. The first boy child was born on 21.09.2011 and the girl child was born on 15.03.2014. Due to family dispute, they were living separately from 10.01.2017.

3. The learned counsel for the petitioner submits that, since the petitioner's parents were at Nilgiris, she has shifted her residence with her children. They were studying in Kotagiri Public School. Hence, she is unable to travel merely 600 km to attend the case at Chennai. Further her son and daughter are under the custody, she is unable to live without them.

4. The learned counsel for the respondent submits that since he is working in private concern in Chennai, he is not able to attend the Court proceedings at Nilgiris. He has also filed a Guardian O.P.No.1056 of 2018



under Section 25 of the Guardians and wards Act, before this Court on 10.10.2018. Hence, he raised an objection to transfer the matter.

5. On considering both side submissions and on a perusal of the records, it reveals that the son and daughter born to them were now under the custody of the petitioner and they were studying in Kotagiri Public School, Nilgiris. If she attends case at Chennai, she will travel nearly 600 kms, the reason seeking for transfer is justifiable.

6. In view of the above, I.D.O.P.No.81 of 2019 and O.P.No.1969 of 2021 on the file of the V Additional Family Court, Chennai are withdrawn and transferred to the file of the Principal District Court, Ooty, which is to be disposed of in accordance with law and the learned V Additional Family Judge, Chennai, is directed to send the entire records to the learned Principal District Judge, District Court, Ooty, within a period of six weeks from the date of receipt of copy of this order. Accordingly, this Tr.C.M.P.No.30 of 2023 is allowed. No costs. Consequently, connected miscellaneous petition is closed.



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7. However, the husband is also the employee in a private concern.

He is also not able to travel 600 kms for each and every hearings. Hence, the husband is directed to appear on final trial proceedings and apart from, as and when required.

20.03.2023

Index : Yes/No

Internet : Yes/No

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To

- 1.The V Additional Family Judge,
Chennai.
- 2.The Principal District Judge,
District Court, Ooty.



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T.V.THAMILSELVI, J.

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