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Tr.CMP.Nos.71 & 56 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

Tr.CMP.Nos.71 & 56 of 2023
and CMP.Nos.1675 & 1500 of 2023

Tr.CMP.No.71 of 2023

R.Pravin

... Petitioner

Vs.

N.Archana

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC to withdraw the HMOP.No.593 of 2022 pending on the file of the Family Court, Salem filed by the respondent and to transfer the same to try along with HMOP.No.5495 of 2022 on the file of the Family Court V, Chennai.

For Petitioner : Mrs.P.Uma

For Respondent : Mr.R.Nalliyappan

Tr.CMP.No.56 of 2023

N.Archana

... Petitioner

Vs.

1.R.Praveen
2.Shriram

... Respondents



Tr.CMP.Nos.71 & 56 of 2023

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC to withdraw the FCOP.No.5495 of 2022 on the file of the V Family Court, Chennai and transfer the same and try along with the application filed by the petitioner in HMOP.No.593 of 2022 on the file of the Family Court, Salem.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mrs.P.Uma

COMMON ORDER

Tr.CMP.No.71 of 2023 has been filed to withdraw the HMOP.No.593 of 2022 pending on the file of the Family Court, Salem filed by the respondent and to transfer the same to try along with HMOP.No.5495 of 2022 on the file of the Family Court V, Chennai. Tr.CMP.No.56 of 2023 has been filed to withdraw the FCOP.No.5495 of 2022 on the file of the V Family Court, Chennai and to transfer the same to try along with the petition filed by the petitioner in HMOP.No.593 of 2022 on the file of the Family Court, Salem.

2. Heard, both the learned counsel appearing on either side.



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3. The husband filed FCOP.No.5495 of 2022 on the file of the V Family Court, Chennai for divorce and the wife filed HMOP No.593 of 2022 on the file of the Family Court, Salem for restitution of conjugal rights. The husband wants to transfer the case filed by the wife to Chennai, so also the wife filed petition seeking to transfer the petition filed by the husband to Salem.

4. The learned counsel appearing for the husband / revision petitioner in Tr.CMP.No.71 of 2023 submits that she is living with an adulterer / the second respondent and if he appears before the Salem Court, there is a life threat, because they are politically influenced. Hence, he prayed to transfer the case from Salem to Chennai.

5. Per contra, the learned counsel appearing for the wife submits that the wife is living at her parents' house along with little child and she is not able to travel to Chennai to attend court hearings since she is having a girl child. So she wants to transfer the case to Salem.



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6. The facts reveals that for the past four years, both are living separately and the child is now under the care of the wife. On earlier occasion, MC.No.26 of 2020 was filed and the same was withdrawn by the wife. As per the contention of the wife, at the instigation of the husband who agreed to settle the issue, the said MC No.26 of 2020 was withdrawn. But thereafter, no maintenance was paid. Admittedly, as on date, no maintenance was paid either to the child or to the wife by the husband. For the past four years, they are living separately. On seeing the facts, if there is a life threat, he is entitled to approach Police concerned. However, on seeing the condition of the wife, she is living with her little child, so the ground raised by her is justifiable.

7. Accordingly, the petition in Tr.CMP.No.56 of 2023 filed by the wife is liable to be allowed as prayed for and the petition in Tr.CMP.No.71 of 2023 filed by the husband is liable to be dismissed. Further, the learned counsel appearing for the wife relied upon the ratio laid down in the case of **Geetha Vs. V.Kirubaharan** reported in **2023 (2) CTC 41**, wherein it is held that even during the transfer proceedings, interim maintenance can be ordered. Now on seeing the facts of the case also reveals that the wife is living with her little child without any source of income. However, the husband is working in



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a private concern. Hence, he is bound to maintain the child. Accordingly, the husband /the petitioner in Tr.CMP.No.71 of 2023 is directed to pay Rs.6,000/- (Rupees Six Thousand only) per month as interim maintenance to the child at the first week of every English calendar month until it is modified by any court of law. The said amount of Rs.6,000/- is directed to be paid directly to the bank account of the child.

8. With the above directions, Tr.CMP.No.56 of 2023 filed by the wife is allowed. FCOP.No.5495 of 2022 pending on the file of the V Family Court, Chennai is withdrawn and transferred to the file of the Family Court, Salem to try along with HMOP.No.593 of 2022 filed by the wife. Tr.CMP.No.71 of 2023 filed by the husband is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

14.03.2023

Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
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T.V.THAMILSELVI, J.

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To

1.Family Court,
Salem

2.The Family Court V,
Chennai.

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