



Tr.C.M.P.No.168 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.04.2023

Pronounced on : 28.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

Tr.C.M.P.No.168 of 2023
and CMP No.3785 of 2023

P.Shanmathi

... Petitioner

Vs.

G.Ravikumar

... Respondent

Prayer: The Transfer Civil Miscellaneous petition filed under Section 24 of the Civil Procedure Code, 1908, seeking to withdraw HMOP No.195 of 2022 on the file of the Subordinate Court, Hosur and transfer the same to the Subordinate Court, Neyveli.

For Petitioner : Mr.K.Bratheesh

For Respondent : Mr.G.Babu

ORDER

The petitioner/wife has filed this Transfer Civil Miscellaneous Petition, seeking to transfer HMOP No.195 of 2022 pending on the file of the Subordinate Court, Hosur to the Subordinate Court, Neyveli.



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2. The facts in brief as can be covered from the records would go to show that the wedding between the petitioner and the respondent took place on 09.09.2021. The dispute arose subsequently between the respondent/husband and his family members. The petitioner has filed D.V.C.No.13 of 2022 on 14.11.2022 before the Judicial Magistrate I, Neyveli and also filed HMOP No.108 of 2022 on 30.11.2022 before the Subordinate Court, Neyveli seeking divorce against the respondent/husband. Similarly, the respondent/husband filed a petition in HMOP No.195 of 2022 before the Subordinate Court, Hosur. Therefore, the petitioner/wife sought for transfer of HMOP NO.195 of 2022 from Sub Court, Hosur to Sub Court Neyveli on the ground of convenience.

3. Heard the learned counsel appearing for both side and perused the materials available on record.

4. There is no dispute that the petitioner and the respondent are wife and husband and their marriage was performed on 09.09.2021. On account of disputes arose between them, the petitioner has filed HMOP



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No.108 of 2022 on the file of the Subordinate Court, Neyveli under Section 13 (1) (ia) of Hindu Marriage Act seeking divorce against the husband and also filed DVC No.13 of 2022 before the Judicial Magistrate I, Neyveli against the husband and his family members who are her mother in law and sister in law, making allegations that she was subjected to domestic violence. The respondent/husband filed HMOP No.195 of 2022 on the file of the Subordinate Court, Hosur seeking divorce.

5. Prior to considering the grounds on which the petitioner is seeking for transfer of HMOP No.195 of 2022, this Court is of the opinion that since both the HMOPs filed by the husband and wife are seeking divorce on the ground of cruelty, in order to avoid divergent observations and findings, it is desirable that both the cases to be tried and disposed of by the same Court as it avoids multiplicity of proceedings.

6. Now the question is whether the request of the petitioner/wife to transfer of HMOP No.195 of 2022 can be considered. It is the case of the petitioner that she has been residing with her parents and her parents are at



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the verge of retirement and the petitioner is required to take care of them.

Further the petitioner is not an earning member. The distance between the Subordinate Court, Neyveli and the Subordinate Court, Hosur is about 324Kms. The respondent is not disputing the above said facts. It is also not disputed that the petitioner is not working anywhere and thereby she has no income. The distance of 324 Kms from one place to another place is also too long and it is difficult for a woman to travel such distance for attending the Court proceedings. No doubt since the matters are pending before the Subordinate Courts, both the parties can appear through their respective counsels. However, still during the course of enquiry, the petitioner will be asking to go for mediation and the parties will have to invariably attend for giving evidence and there will be some instance for the parties to move Interlocutory applications and also required to get instructions from their respective counsels. Thereby travelling to the places where the cases are conducted, cannot be avoided. It is not clear as to whether the respondent/husband is an earning member or not. However, he will have an advantage of being a male member by taking various mode of transport in order to reach the Court where the case is pending.



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7. It is a settled legal position that whenever the transfer of a case of a matrimonial case come for consideration, the convenience of the wife is paramount. Apart from that inconvenience likely to be caused to the petitioner in case if she is asking to transfer more than 300 kms, this Court is also cautious of the fact that she has no income, thereby she has to spend huge money for transport and other expenses whenever she attends Court. Further, it is also the contention of the petitioner that he has to take care of her parents who are about to retire. Apart from all these circumstances, the petitioner has also filed DVC No.13 of 2022 against the respondent/husband and his family members and the same is pending at Judicial Magistrate I, Neyveli. Therefore, HMOP No.195 of 2022 pending on the file of the Subordinate Court, Hosur is transferred to the Subordinate Court, Neyveli, the petitioner will have an advantage to attend all the three cases at once by staying with her parents.

8. Considering the circumstances discussed above, this Court is in agreement with the petitioner for transfer of HMOP No.195 of 2022. Accordingly, HMOP NO.195 of 2022 is ordered to be transferred from the



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Subordinate Court, Hosur to the Subordinate Court, Neyveli. The learned Sub Judge, Hosur, is directed to despatch the case records pertains to the HMOP No.195 fo 2022 to the Sub Judge, Neyveli. On receipt of the same, the learned Sub Judge, Neyveli is directed to take the case on file and proceed to dispose of the same on merits and in accordance with law, as expeditiously as possible.

9. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2023

vum
Index: Yes/No
Speaking order / Non speaking order

To

1. The Subordinate Court, Hosur.
2. The Subordinate Court, Neyveli.



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DR.D.NAGARJUN, J.

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