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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22/6/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Tr.C.M.P.No.254 of 2023
a n d
C.M.P.No.5606 of 2023

Sathya ... Petitioner

Vs

J. Narendaran ... Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.64 of 2022 on the file of the Sub-Court, Perundurai and transfer to Family Court, Tiruppur tried along with M.C.No.16 of 2023 on the file of Family Court, Tiruppur.

For Petitioner ... Mr.K.Sudhakar

For respondent ... Ms.K.Indupriya

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O R D E R

This Transfer Miscellaneous Petition is filed by the wife seeking to transfer H.M.O.P.No.64 of 2022 filed by the respondent/husband seeking divorce on the file of the Sub-Court, Perundurai.

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2. Brief facts which are necessary for the disposal of this Transfer Miscellaneous Petition are as follows:-

The wedding of the petitioner with the respondent has taken place, on 4/12/2016. During the wed lock, the petitioner gave birth to a male child on 14/5/2019. Subsequently, both of them could not get along well for various reasons, on which, the respondent/husband has filed H.M.O.P.No.64 of 2022, on the file of the Sub-Court, Perundurai, for divorce. On the other hand, the petitioner has filed M.C.No.16 of 2023, seeking maintenance from the respondent, before the Family Court, Tirupur. The present petition is filed by the petitioner/wife on the ground that she is staying with her widowed mother and both of them are unemployed and have to travel about 120 kms up and down by bus and required to spend huge money. Hence sought for transfer of H.M.O.P.No.64 of 2022, which is pending on the file of the Sub-Court, Perundurai to the Family Court, Tiruppur.

3. Heard Mr.K.Sudhakar, learned counsel for the petitioner, through Video Conferencing and Ms.K.Indupriya, learned counsel for the respondent.

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4. The learned counsel appearing for the petitioner submitted that the petitioner and respondent have become victims of COVID 19 not because they are attacked by COVID 19 virus, but because of COVID 19, the respondent started working from home, thereby, the petitioner and respondent moved to the house of the respondent, where the parents of the respondent are staying. During that tenure, issues arose between the petitioner and respondent and also between the petitioner and parents of the respondent, which ultimately made both the petitioner and respondent to reside separately.

5. On the other hand, the respondent/husband has filed a counter, stating that the petitioner is responsible for filing of the petition for divorce. In respect of the transfer of the petition, as proposed by the petitioner, the respondent has mentioned in his counter that the distance between these two places is not 120 Kms and it is only 40 kms and travelling by bus costs only Rs.55/- per person. It is also stated that the petitioner's matrimonial Uncle came to the respondent's house and threatened him and therefore, there is no safety for his life, if the case is transferred from the Sub-Court, Perundurai to the Family Court, Tiruppur.

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6. Perused the materials available on record.

7. Whenever the question of transfer of a matrimonial case falls for consideration, the Court is required to see the convenience and inconvenience of the parties involved. In the case on hand, the petitioner is a wife, who is an unemployed, taken shelter with her widowed mother, along with her four year old son. These facts have not been disputed by the respondent. On the other hand, the respondent is working in a software Company. If the case is not transferred from the Sub-Court, Perundurai to the Family Court, Tiruppur, the petitioner has to travel about 120 kms for each hearing. Even according to the respondent, one has to spend Rs.55/- for bus. Without the assistance of any other person, she cannot travel to Perundurai, where the case is instituted.

8. Admittedly, the facts in H.M.O.P.No.64 of 2022 and M.C.No.16 of 2023 are connected to each other, the respondent has to appear at Family Court, Tiruppur in M.C.No.16 of 2023, it would be convenient to the Family Court to take up both the matter simultaneously. Considering the same, this Court is inclined to consider the request of the petitioner and

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allow this Transfer Civil Miscellaneous Petition to the Family Court, Tirupur, so that both the petitions can be disposed of, simultaneously.

9. At this stage, the learned counsel appearing for the respondent requests this Court to transfer both the cases to the Sub-Court, Avinashi, which is about 14.1 kms from Tiruppur. In response, the learned counsel appearing for the petitioner submits that he has no objection in transferring both the cases to the Sub-Court, Avinashi.

10. In the result, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.64 of 2022 pending on the file of the Sub-Court, Perundurai and M.C.No.16 of 2023, pending on the file of the Family Court, Tiruppur, are transferred to the Sub-Court, Avinashi. The learned Subordinate Judge, Avinashi, is directed to dispose of both the cases, as expeditiously as possible.

No costs. Consequently, the connected Miscellaneous Petition is closed.

22/6/2023

Index :yes/no
Neutral Citation: Yes/No

mvs.

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Dr.D.NAGARJUN,J
mvs.

To
1. The Sub-Court, Perundurai

2. The Family Court, Tiruppur,

3. The Sub-Court, Avinashi.

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