



Tr.C.M.P.No.324 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

Tr.C.M.P.No.324 of 2023

and

C.M.P.No.7236 of 2023

Nithya

..Petitioner

Vs.

Saravanan

..Respondent

PRAYER: Civil Revision Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw HMOP.No.101 of 2022 pending before the Sub Court at Mettur, Salem District and transfer the same to the Family Court, Salem.

For Petitioner : Mr.P.Dasarathan

For Respondent : No appearance

ORDER

The learned counsel for the petitioner is present. Notice taken out the respondent through Court returned as “un-claimed” and the notice



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taken out by the petitioner through counsel was served and affidavit of service has been filed along with the acknowledgement card.

2. Heard the learned counsel for the petitioner and perused the records. There is no representation for the respondent. This petition is filed seeking to withdraw HMOP.No.101 of 2022 pending before the Sub Court at Mettur, Salem District and transfer the same to the Family Court, Salem.

3. The petitioner who is the wife of the respondent, on account of the disputes between them has filed DVC.No.10 of 2023 on the file of the Additional Mahila Judicial Magistrate Court, Salem, whereas the respondent has previously filed HMOP.No.101 of 2022 on the file of Sub-Court, Mettur seeking restitution of conjugal rights.

4. The learned counsel for the petitioner submitted that the distance between the place where the petitioner is residing and the Sub-Court, Mettur is about 120 kms. The petitioner is having a child of 3



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years old and she is taking shelter under her mother and uncle. The respondent is stated to be working in a private concern.

5. It is a settled legal position that whenever the question of transfer of matrimonial case from one Court to another Court is considered, paramount importance has to be given to the convenience of the wife. As per the records the private notice is served on the respondent and the affidavit of service is filed. Since the respondent himself is not interested in contesting this case, taking into consideration the submissions of the learned counsel for the petitioner and since the DVC case filed by the petitioner is already pending before the Additional Mahila Judicial Magistrate Court, Salem, where the respondent is appearing, this Court is of the opinion that the HMOP.No.101 of 2022 can also be transferred to Salem for the interest of the petitioner as well as the respondent. Accordingly, HMOP.No.101 of 2022 pending before the Sub Court at Mettur, Salem District is directed to be withdrawn and transferred to the Family Court, Salem.



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Dr.D.NAGARJUN, J.

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6. Accordingly, this petition is allowed. No costs.

Consequently, the connected miscellaneous petition is closed.

22.06.2023

dsa

Index :Yes/No

Internet :Yes/No

Neutral Citation :Yes/No

Speaking order/Non-Speaking order

To:-

1.The Sub-Judge, Mettur, Salem District.

2.The Family Judge, Salem.

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