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Tr.CMP.No.316 of 2022.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Tr.CMP.No.316 of 2022

and

C.M.P.No.6345 of 2022

R.Suriya

... Petitioner/Respondent

Vs.

J.Dinesh Kumar

... Respondent/Petitioner

PRAYER: Transfer Petition filed under Section 24 of Civil Procedure Code, to withdraw the HMOP.No.202 of 2021 from the file of the learned Judge, Family Court, Tiruchirappalli and transfer the same to the learned Judge, Family Court, Cuddalore.

For Petitioner : Mr.S.Jagan

For Respondent : Mr.J.Jayan

ORDER

This Petition has been filed to withdraw the HMOP.No.202 of 2021 from the file of the learned Judge, Family Court, Tiruchirappalli and transfer the same to the learned Judge, Family Court, Cuddalore.



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2. The learned Counsel for the Respondent/Husband submitted that when the case came up for hearing on 23.02.2023 it was not reached, however, at 1.30 p.m. the learned Counsel for the Petitioner/Wife obtained stay order behind the back of the learned Counsel for the Respondent/Husband. The learned Counsel for the Respondent/Husband viz., J.Jayan submitted that this Transfer Civil Miscellaneous Petition was already dismissed for non-prosecution on 02.08.2022 and subsequently, it was restored and there was no stay. Therefore, he objected to the Transfer Civil Miscellaneous Petition having been ordered.

3. Considering the objection raised by the learned Counsel for the Respondent/Husband, the case was called back and on perusal of the order, it is found that even though it was already in the list on 23.02.2023, since Transfer Civil Miscellaneous Petition does not require any lengthy arguments or perusal of the records, stay was ordered in the usual course on request of the learned Counsel for the Petitioner/Wife. Therefore, as usual notice was also ordered. The learned Counsel for the Respondent/Husband having raised objection today, the case is called back and instead of issuing notice to the Respondent/Husband, the case is heard as the name of the



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learned Counsel is printed as J.Jayan. He had taken notice. He cannot have an objection for transferring of H.M.O.P. as there are guidelines from the Hon'ble Supreme Court regarding matrimonial dispute. In the ordinary course, when matrimonial cases are taken up by the Court concerned, it shall be, as far as possible, nearer to the place of the wife. Here, H.M.O.P. No.202 of 2021 was filed by the Husband before the Court of the learned Judge, Family Court, Tiruchirappalli. This Transfer Civil Miscellaneous Petition is filed by the Petitioner/Wife seeking withdrawal of the same from the file of the learned Judge, Family Court, Tiruchirappalli and transfer the same to the file of the learned Judge, Family Court, Cuddalore. Therefore, it has necessarily to be withdrawn from the file of the learned Judge, Family Court, Tiruchirappalli and transferred to the file of the learned Judge, Family Court, Cuddalore since the wife resides in Cuddalore. The objection raised by the learned Counsel appearing for the Respondent/Husband is rejected.

4.In the result, this **Transfer Civil Miscellaneous Petition is allowed.**

The H.M.O.P.No.202 of 2021 is withdrawn from the file of the learned Judge, Family Court, Tiruchirappalli and transferred to the file of the learned Judge, Family Court, Cuddalore. On receipt of the records in



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H.M.O.P.No.202 of 2021 from the file of the learned Judge, Family Court, Tiruchirappalli, the learned Judge, Family Court, Cuddalore shall take it on his file and number it accordingly, and he/she shall consider the case as in the year 2021 and parties to the proceedings are waiting for the result of the HMOP and dispose it off as per the priority list before him/her. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2023

srm

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order



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To

1. The Family Court Judge,
Tiruchirappalli.
2. The Family Court Judge,
Cuddalore.
3. Section Officer,
V.R.Section, High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

SRM

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