



Tr.CMP.No.293 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP.No.293 of 2021

and

CMP.No.7401 of 2021

I.Gnana Mary

.. Petitioner

Vs.

A.Raja @ Joseph Robertson

.. Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw I.D.O.P.No.27 of 2012 on the file of the Principal District Judge, Tiruvallur and to transfer the same to the Family Court, Chennai.

For Petitioner : Mr.Govind Chandrasekhar

For Respondent : No appearance



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ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw I.D.O.P.No.27 of 2012 from the file of the learned Principal District and Sessions Judge, Tiruvallur and transfer the same to the Family Court, Chennai.

2. The petitioner/wife has taken newspaper publication to the respondent/husband and the same was published on 03.09.2022 in Chennai Edition, viz., Makkal Kural. In spite of the same, there was no appearance for the respondent, but, this Court, directed the petitioner to serve notice on the lower Court counsel and private notice through last address, but the same could not be served as “Item on hold door was locked-intimation served” and hence, notice could not be served on the respondent/husband.

3. Heard the learned counsel for the petitioner/wife and perused the materials available on record.



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4. None appeared on behalf of the respondent/husband.

5. On perusal of the records, it seen that the husband of the petitioner filed I.D.O.P.No.27 of 2012 seeking decree of divorce under Section 10(x) of the Indian Divorce Act, 1869 before the Principal District and Sessions Court, Tiruvallur. The petitioner and the respondent got married as per Christian Rites and Customs on 19.07.2006 before the Pastor at Apostolic Revival Church, Ponneri, and after marriage, they were residing in matrimonial home at No.10, 1st Street, S.M.Nagar, Chennai – 600062, and both were living with the respondent's parents' house and they were blessed with two female children, viz., R.Oviya and R.Illakeya. After some difference of opinion between them, the respondent/husband started quarrels with the petitioner without any proper reasons. Therefore, the petitioner/wife was mentally and physically harassed continuously by the respondent/husband. She went back to her parents' house along with her two children. The respondent filed the said I.D.O.P. before the Court below and the same is pending about 9 years on the date of filing of the Transfer Civil Miscellaneous Petition. The petitioner had also filed maintenance case in



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M.C.No.492 of 2012 before learned III Additional Judge, Family Court, Chennai, seeking maintenance and the same is pending. Therefore, the petitioner seeks for transfer of I.D.O.P.No.27 of 2012 from the file of the Principal District and Sessions Court, Tiruvallur to the file of the III Additional Judge, Family Court, Chennai.

6. It is also seen that the petitioner is living with her aged parents and her two children in St.Thomas Mount, Chennai, and it is extremely difficult to travel to Tiruvallur to attend the Court hearings and sought for indulgence of this Court and the petitioner has been starving with maintenance amount also not being paid and thereafter, she seeks for transfer of the case as stated supra. However, this Court gave one more opportunity to the respondent/husband and directed the petitioner to serve notice on the learned counsel for the respondent who had already appeared before the Court below. Accordingly, she has filed Proof of Service before this Court and the same was also sent by the petitioner by way of Registered Post Acknowledgement Due on 27.12.2022 and on 28.12.2022, the return of notice was intimated by the Postal Authorities with an endorsement “Item



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onhold door locked-intimation served”.

7. Considering the facts and circumstances of the case, this Court is of the view that the petitioner/wife has got a valid case for transferring the case as prayed for by the petitioner. Accordingly, the learned Principal District and Sessions Judge, Tiruvallur is hereby directed to transfer the entire case bundle pertaining to I.D.O.P.No.27 of 2012 to the file of the Family Court, Chennai, for hearing the same along with M.C.No.492 of 2012, within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Transfer Civil Miscellaneous Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

03.01.2023

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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V.BHAVANI SUBBAROYAN,J.

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To

1. Principal District and Sessions Judge,
Tiruvallur.
2. The III Additional Judge,
Family Court, Chennai.
3. The Section Officer,
V.R. Section,
High Court, Madras.

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