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Tr.CMP.No. 307 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P. No. 307 of 2023

and

C.M.P. No. 6877 of 2023

S, Rajathi Rajalakshmi

.. Petitioner

Versus

M.S.Ashok Kumar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the O.P. No. 40 of 2023 pending from the file of Family Court, Thanjavur, and transfer the same to the file of Family Court, Vellore.

For Petitioner : Mr.K. Balaji

For Respondent : Mr.J. Thomas Edwin Fantin
For Mr.P. Sivaraman

ORDER

This petition is filed to withdraw O.P. No. 40 of 2023 from the file of Family Court, Thanjavur, and to transfer the same to the file of Family Court, Vellore.



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2. The case of the petitioner/wife is that the marriage between her and the respondent/husband was solemnized on 13.03.2020. The respondent, along with his parents, demanded dowry and harassed the petitioner under cruelty. Out of their wedlock, the petitioner gave birth to a male child. The petitioner, in her affidavit, stated that the respondent/husband is working in Postal Department and earning a sum of Rs.75,000/- pm. The petitioner/wife filed a petition in MC.No. 4 of 2023 and DVC case against the respondent and the same are pending before the Family Court, Vellore, claiming a sum of Rs.30,000/-p.m. as maintenance. After entering the appearance in both the cases, the respondent/husband filed OP.No. 40 of 2023 for restitution of conjugal rights before the Family Court, Tanjore, only to harass the petitioner and she is staying with her child along with her aged mother at Vellore. The petitioner is the only child to take care of her mother and she has been diagnosed with severe articular cartilage damage and knee effusion and was advised for surgery, but she is still under medication. Since the Family Court of Tanjore, which is situated about 300 kms away from Vellore, she could not travel from Vellore to Tanjore.



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3. The learned counsel for the petitioner submitted that the petitioner/wife who has no support from her family, is unable to attend the hearings of the case along with her aged parents. Since the distance from Tanjore to Vellore is more than 300 Kms, the petitioner/wife seeks withdrawal and transfer the case from the file of the Family Court, Tanjore, to the file of the Family Court, Vellore, mainly on the ground of convenience of travel of the petitioner/wife.

4. The learned counsel for the petitioner further submitted that the petitioner/wife is a helpless woman and the respondent/husband has not even paid any maintenance amount to the petitioner/wife so far, and hence, the petitioner is not able to attend her daily life and attend the Court hearings. Therefore, the learned counsel prayed for maintenance amount to the petitioner/wife atleast for her medical treatment.

5. In a petition filed by the husband for restitution of conjugal rights, the convenience of wife is relevant. Having regard to the facts narrated in the affidavit filed in support of this TrCMP, this Court is fully



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convinced that the petitioner/wife should not be put to much hardship, inconvenience by travelling such a long distance. Hence, this Court is inclined to allow this petition.

6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. Accordingly, O.P. No. 40 of 2023 pending on the file of the Family Court, Tanjore, shall hereby stand withdrawn and be heard along with M.C.No. 4 of 2023 in the Family Court, Vellore. However, the respondent/husband has voluntarily come forward to pay the total medical bills amount to his son, namely, Master Ridhan, who had undergone treatment in the Christian Medical College, Department of Paediatrics-II, Vellore-632 004, till he gets cured. Further, the Family Court, Vellore, is directed to dispose of the O.P.No.40 of 2023 and M.C.No. 4 of 2023 as expeditiously as possible. The personal appearance of the petitioner/wife is dispensed with before the Court below and she shall appear as and when the Court orders to appear. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

10.08.2023



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Speaking order : Yes/No
Neutral Citation : Yes/No
MSM

To

- 1.The Principal Judge, Family Court, Thanjavur.
- 2.The Judge, Family Court, Vellore.



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V.BHAVANI SUBBAROYAN, J

MSM

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