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Tr.C.M.P.No.325 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.325 of 2023
and
C.M.P.No.7245 of 2023

T.Ramya @ Bushma

... Petitioner

Vs.

K.Sivasankaran

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908 to withdraw H.M.O.P.No.369 of 2022 pending of the file of the learned Family Court, Pondicherry and transfer the same to the file of the sub-Court, Maduranthakam and pass orders.

For Petitioner : Mr. K.Shyam Sunder

For Respondent : Mr. E.Anbarasan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw H.M.O.P.No.369 of 2022 pending of the file of the learned Family Court, Pondicherry and transfer the same to the Sub-Court



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Maduranthakam for further proceedings.

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2. The case of the petitioner is that she got married to the respondent on 01.12.2016 at Annai Lourdhu Mahal, Odiampet Main, Kanuvapet, Pondicherry as per the Hindu Rites and Rituals and due to the said wed lock one girl child was born to them. After marriage when the couple was residing in their matrimonial home. Due to the difference of opinion that arose between them, they both got separated and living separately since then. The respondent/ husband has filed a petition for divorce before the Family Court, Pondicherry in H.M.O.P.No.322 of 2018 on 12.07.2018, under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 and the same was dismissed on 10.12.2018. Thereafter, a fresh H.M.O.P.No. 369 of 2022 seeking divorce was filed. Hence, the petitioner has filed this petition seeking to transfer the petition filed by her husband in H.M.O.P.No. 369 of 2022 on the file of the Family court, Pondicherry to the Sub-Court, Mathuranthakam.

3. The learned counsel for the petitioner submitted that now the petitioner is residing in a remote village at Chengalpet District along with her child who is hardly one and a half years old. Being a lady, the petitioner



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could not able to attend the Court proceedings in Family court, Pondicherry. Hence, she seeks to withdraw the H.M.O.P.No. 369 of 2022 from the file of the the Family court, Pondicherry and transfer the same to the Sub-Court, Madhuranthakam. If the case is transferred to Madhuranthakam, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by the husband.

4. Heard the learned counsel for the petitioner as well as the respondent. Perused the materials available on record. It is well settled law that whenever, the transfer application is filed in matrimonial dispute, the convenience of the wife shall be given preference.

5. In view of the above submission made by the learned counsel appearing for the petitioner and considering the facts and circumstances of the case and taking note of the fact that the petitioner cannot accompany her child during Court proceedings this Court is inclined to withdraw the H.M.O.P.No. 369 of 2022 from the file of the the Family court, Pondicherry and transfer to the Sub-Court, Maduranthakam.



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6. In the result, the Transfer Civil Miscellaneous Petition is allowed. The learned Judge of Sub-Court, Maduranthakam is directed to complete the proceedings as expeditiously as possible, since, already the pleading are completed. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2023

Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

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To

1.The Family Judge, Pondicherry.

2. The Sub-Court, Maduranthakam.



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V.BHAVANI SUBBAROYAN., J.

gba

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