



Tr.C.M.P.No.358 of 2023
and CMP.No.7793 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Tr.C.M.P.No. 358 of 2023

and

CMP.No.7793 of 2023

Pommi @ G.Vinothini
D/o.Gunasekaran

... Petitioner

Vs.

A.D. Kengatharan
S/o. A.K.Dhamodharan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., praying to withdraw the H.M.O.P.No. 113 of 2020 on the file of the Sub-Court, Bhavani and transfer the same to the Sub-Court, Tiruchengode.

For Petitioner : Mr. P. Vetrivel

For Respondent : Mr. R. Swarnavel



Tr.C.M.P.No.358 of 2023
and CMP.No.7793 of 2023

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ORDER

The petitioner/wife seeks transfer of H.M.O.P.No.113 of 2020 pending on the file of Sub-Court, Bhavani to the Sub-Court, Tiruchengode. The petitioner /wife seeks transfer of the proceedings before the Sub Court, Bhavani on the ground that she is living with one male child who is aged about 5 years at Tiruchengode and she is not able to attend the court hearings by travelling 25 kms.

2. The learned counsel for the petitioner submitted that, the marriage between the respondent and the petitioner was solemnized on 03.09.2017 at Swami Abodhanandha Marriage Hall, Aappakkudal as per Hindu rights and customs, out of the wedlock, she have one male child. From the beginning of our marriage life, the respondent was harrsed her and caused mental cruelty. He further submitted that the respondent had filed a petition for divorce in HMOP.No.113 of 2020 before the learned Sub-Judge, Bhavani to dissolve the marriage. She contested the said case, stating that she is not inclined to live with him. Now the petitioner living with her parents home



Tr.C.M.P.No.358 of 2023
and CMP.No.7793 of 2023

WEB COPY

with her 5 year old child and it is difficult to travel morethan 25 kms to attend the Court proceedings at Bhavani. Hence, she prays to transfer the HMOP.No.113 of 2020, to the Sub-Court, Tiruchengode.

3. The learned counsel for the respondent submitted that the respondent is working in Sakthi Sugar Private limited, was allotted quarters and he is bound to live in this house. Therefore, the respondent at many times made request to live with him. In respect of the notice she was not inclined, so that only he forced to file a petition for Restitution of Conjugal rights before the learned Sub-Court, Bhavani in H.M.O.P.No.145 of 2018. The said petition was ordered on 14.09.2020 and directed the petitioner to live with the respondent within 2 months from the date of the order. Thereafter, the petitioner live with him nearly 3 months, again, she left the matrimonial home voluntarily. But, the respondent is ready and willing to live with the petitioner along with her child. He further submitted that, with an intention to drag on the proceedings, the petitioner has filed this application to transfer the matter to Tiruchengode. Hence, he raised strong objection to allow this petition.



Tr.C.M.P.No.358 of 2023
and CMP.No.7793 of 2023

WEB COPY

4. Considering both sides submission and on a perusal of the records it reveals that as per the earlier order passed by the learned Sub-Judge, Bhavani, the petitioner / wife is directed to live with her husband in the Sakthi Sugar Private limited, Quarters, but she is not inclined to live with him. Admittedly, the petitioner is living with her child at Tiruchengode in her parental home.

5. The facts reveals that the petitioner is not inclined to live with the respondent in the said quarters. Furthermore, the trial was begin, PW1 was examined by chief and also for many hearing the respondent attend the Court proceeding during week days. Therefore the reason assigned by the petitioner is not justifiable.

6. However, the learned Sub-Judge, Sub-Court, Bhavani, is directed to dispose of the case within a period of three months from the date of this order.



Tr.C.M.P.No.358 of 2023
and CMP.No.7793 of 2023

WEB COPY

7. In view of the above, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected civil miscellaneous petition is closed.

03.10.2023

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order

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To

The sub-Judge, Bhavani.



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Tr.C.M.P.No.358 of 2023
and CMP.No.7793 of 2023

T.V.THAMILSELVI, J.

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Tr.C.M.P.No. 358 of 2023
and
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03.10.2023