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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.342 of 2023
and
C.M.P.No.7639 of 2023

Syed Nazrin

... Petitioner

Vs.

A. Nasser Ali

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908 to withdraw O.S.No.17 of 2023 pending on the file of first Additional Family Court at Chennai and transfer the same to Subordinate Court, Sivagangai and pass orders.

For Petitioner : Mr. V. V. Sathya

For Respondent : Mr.L.A. Raja Mohamed



ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw O.S.No.17 of 2023 pending on the file of first Additional Family Court at Chennai and transfer the same to Subordinate Court, Sivagangai.

2. The case of the petitioner is that the petitioner married the respondent on 15.02.1998 as per Muslim rites and customs and out of the said wedlock two children were born to them. Thereafter, in the year 2020 the petitioner was harassed by her husband, due to which the petitioner left her matrimonial home and went to her parental home at Sivagangai. It was to the shock to the petitioner that the respondent herein has filed a petition seeking divorce in O.S.No.17 of 2023 before the I Additional Family Court, Chennai. Hence, the petitioner has come forward with this present petition to withdraw the O.S.No.17 of 2023 on the file of I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court, Sivagangai.

3.The learned counsel for the petitioner submitted that she has to travel 460 kms to attend the Court proceedings in O.S.No.17 of 2023 before the I Additional Family Court, Chennai. Hence, she seeks to withdraw O.S.No.17 of 2023 on the file of I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court,



Sivagangai. If the case is transferred, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by the husband.

4. The learned counsel for the respondent objected to transfer the case to Subordinate Court, Sivagangai.

5. Heard the learned counsel for the petitioner and 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.

6. In view of the above submission made by the learned counsel appearing for the petitioner and considering the fact that the petitioner being a lady could not able to attend the Court proceedings at Chennai and circumstances of the case, this Court is inclined to withdraw O.S.No.17 of 2023 on the file of I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court, Sivagangai. **However, it is made clear that If the petition is transferred, the respondent is directed to appear before the Court proceedings at Sivagangai as and when required.**



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7. In the result, the Transfer Civil Miscellaneous Petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

20.09.2023

Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

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To.

1. The first Additional Family Court at Chennai

2. To Subordinate Court, Sivagangai

V.BHAVANI SUBBAROYAN., J.



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