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Tr.CMP.No. 380 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

Tr.C.M.P. No. 380 of 2023

and

C.M.P. No. 8122 of 2023

Kavitha

.. Petitioner

Versus

G.Sriram

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P. No. 5225 of 2023 pending on the file of II Family Court, Chennai and transfer the same and try along with the application filed by the petitioner in H.M.O.P.No.45 of 2023 on the file of Family Court, Salem.

For Petitioner	: Mr.R.Nalliyappan
For Respondent	: Mr.K.A. Vimal Kumar

ORDER

This petition is filed to withdraw H.M.O.P. No. 522 of 2023 from the file of II Additional Family Court, Chennai and transfer the same and try along with the application filed by the petitioner in H.M.O.P. No. 45 of



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2023 on the file of Family Court, Salem.

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2. The case of the petitioner is that the marriage between the petitioner/wife and the respondent/husband was solemnized on 20.05.2018. The respondent along with his parents demanded dowry and harassed the petitioner under cruelty. The petitioner in her affidavit stated that her husband was not at all interested in birth of a child. When there was some dispute between them, the respondent/husband filed a petition for divorce in H.M.O.P. No. 5225 of 2023 on the file of II Additional Family Court, Chennai, under Section 13(1) (i-a) of the Hindu Marriage Act. The petitioner/wife filed H.M.O.P.No. 45 of 2023 for restitution of conjugal rights before the Family Court, Salem. It is stated by the learned counsel for the petitioner/wife that the petitioner is not working anywhere and residing at Salem along with aged parents and therefore, she cannot travel from Salem to Chennai.

3. The learned counsel for the petitioner submitted that the petitioner 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



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Salem to Chennai is more than 250 Kms, the petitioner seeks withdrawal and transfer the case from the file of II Additional Family Court, Chennai, to the Family Court, Salem, mainly on the ground of convenience 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 paid any maintenance amount to the petitioner/wife so far and hence, the petitioner is not able to discharge the daily life and attend the Court hearings. Therefore, the learned counsel prayed for maintenance amount to the petitioner/wife for her medical treatment.

5. In a petition filed by the husband for divorce, the convenience of wife is relevant. Having regard to the facts narrated in the affidavit filed in support of this petition, this Court is fully convinced that the petitioner should not be put to much inconvenience by traveling such a long distance. Hence, this Court is inclined to allow this petition. Accordingly, H.M.O.P. No. 5225 of 2023 pending from the file of the II Additional Family Court, Chennai, is hereby withdrawn and transfer the same to the



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6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. However, the respondent/husband is directed to pay a sum of **Rs.1,00,000/- [Rupees One Lakh Only]** to the petitioner/wife for her medical treatment on or before 05.09.2023. Further, the Court below is directed to complete the trial jointly and dispose of the HMOP Nos.45 and 5225 of 2023 as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

08.08.2023

Index:Yes/No

Speaking order : Yes/No

Neutral Citation : Yes/No

MSM

To

1.The II Additional Family Court, Chennai.

2.The Family Court, Salem.



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V.BHAVANI SUBBAROYAN, J.

MSM

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