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Tr.C.M.P.No.412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.412 of 2023
and
C.M.P.No.8985 of 2023

S. Suguna

... Petitioner

Vs.

C. Sivaguru

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 151 of Civil Procedure Code, 1908 to withdraw the H.M.O.P.No.603 of 2022 from the file of the learned Subordinate Court at Poonamallee and transfer to the Learned III Additional Family Court, Chennai for further proceedings.

For Petitioner : Mr. Velu Srinivasan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the H.M.O.P.No.603 of 2022 from the file of the learned Subordinate Court at Poonamallee and transfer to the Learned III Additional Family Court, Chennai for further proceedings.



Tr.C.M.P.No.412 of 2023

2. Despite serving notice on the respondent, there is no representation on behalf of the respondent.

3.The case of the petitioner is that she got married with the respondent on 13.02.2011 at Sri Murugan Temple, Vadapalani as per Hindu rites and customs. After marriage, the couple was residing separately in Annai Sathya Nagar, Porur, Chennai. After some time there was some misunderstanding between them, hence, the petitioner left out from the matrimonial home on 19.09.2019 and went to her parents. She filed a petition for maintenance from the Respondent under Section 125 of CrI.P.C in M.C.No.91 of 2023 on the file of the III Additional Family Court, Chennai and also filed O.P.No.823 of 2023 before III Additional Family Court, Chennai under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. While so, the respondent has also filed a petition for divorce in H.M.O.P.No.603 of 2022 before the Subordinate Court, Poonamalle against the petitioner.

4.The learned counsel for the petitioner submitted that now the petitioner is residing along with parents and with her child who is hardly 3 years old. Being a lady, the petitioner could not attend the Court proceedings in Subordinate Court, Poonamalle. Because of



Tr.C.M.P.No.412 of 2023

this, she is facing physical as well as financial issues. Hence, she seeks to withdraw the transfer H.M.O.P.No.603 of 2022 from the file of the learned Subordinate Court at Poonamallee and transfer to the Learned III Additional Family Court, Chennai. If the case is transferred to Chennai, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by the husband.

5.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.

6.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 her aged parents and child cannot accompany her during Court proceedings this Court is inclined to withdraw the H.M.O.P.No.603 of 2022 from the file of the learned Subordinate Court at Poonamallee and transfer to the Learned III Additional Family Court, Chennai



Tr.C.M.P.No.412 of 2023

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

10.07.2023

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

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To

- 1.The Subordinate Court at Poonamallee
2. The Learned III Additional Family Court, Chennai



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Tr.C.M.P.No.412 of 2023

V.BHAVANI SUBBAROYAN., J.

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