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Tr.CMP No.464 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

C O R A M:

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

Tr.C.M.P.No.464 of 2023

and

C.M.P.No.10694 of 2023

R.Prajeesha

Petitioner

Vs.

V.S.Nagaraj

Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, to withdraw H.M.O.P.No.723 of 2022 pending on the file of the Sub-Court, Alandur and transfer the same to the file of the Family Court at Coimbatore and have joint trial along with H.M.O.P.No.371 of 2022 and G.W.O.P.No.415 of 2022.

For petitioner : Mr.M.Gouthaman
for Ms.B.Deepika

For respondent : Ms.G.S.Thilagavathi

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw the case in H.M.O.P.No.723 of 2022 pending on the file of the Sub-Court, Alandur and transfer the same to the file of the Family Court at Coimbatore and have joint trial along with H.M.O.P.No.371 of 2022 and G.W.O.P.No.415 of 2022.



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2. The case of the petitioner is as follows:

2.1. She was married to the respondent on 22.04.2018 and both were living in Chennai and they have a minor son. While so, due to the torture given by the respondent, she left her matrimonial house along with the minor son. In due course, the respondent and his parents came up for compromise to her parents' house but nothing worked out.

2.2. The respondent visited his in-laws' home in an inebriated state, stayed there and created ruckus. The petitioner and her parents suffered mental agony and in such circumstances, they filed a divorce petition in H.M.O.P.No.371 of 2022 and a petition to safeguard the child from the respondent in G.W.O.P.No.415 of 2022 and both are pending on the file of the Principal Family Court, Coimbatore, and the respondent had entered appearance.

2.3. The respondent had also filed H.M.O.P.No.732 of 2022 for restitution of conjugal rights on the file of the Sub-Court, Alandur.



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2.4. While so, this petition has been filed seeking the relief as stated in the opening paragraph.

3. The learned counsel for the petitioner submitted that the petitioner is currently practising as a Junior Advocate in Coimbatore and her parents are taking care of her minor son; she finds it difficult to appear before the Sub-Court, Alandur, which is 500 kms away, by incurring a sizeable sum; there is also a life threat to her at the hands of the respondent's father; and hence this petition.

4. Per contra, the learned counsel for the respondent submitted that the respondent was always with an intention for reunion, so, he had visited his in-laws' house multiple times, where the petitioner was living and stayed there, but, his attempts to compromise failed, as the petitioner was not interested for reunion; he was also not allowed to see his child and she had levelled false allegation against him and his family; as a last attempt of compromise, he insisted that both of them shall live in a separate house, but she was not acceptable for that too.



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5. The learned counsel appearing for the respondent further submitted that the petitioner did not let the respondent see his minor son and hence, the respondent filed a petition for restitution of conjugal rights as well as visitation rights before the Sub-Court, Alandur, in which, the petitioner has not appeared till now.

6. The learned counsel for the respondent further submitted that the respondent is also a practising lawyer at Chennai and if the case is transferred to Coimbatore, he would be put to financial constraint and hence prayed for dismissal of this petition.

7. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8. It is a well settled law that whenever a transfer application is filed in a matrimonial dispute, the convenience of the wife shall be given preference.

9. In view of the above and also considering the facts and circumstances of the case, this Court withdraws H.M.O.P.No.723 of 2022



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pending on the file of the Sub-Court, Alandur and transfers the same to the file of the Family Court at Coimbatore for joint trial along with H.M.O.P.No.371 of 2022 and G.W.O.P.No.415 of 2022. Further, the respondent is directed to deposit an amount Rs.10,000/- every month to the petitioner's account as maintenance amount on or before 5th of every month and he shall visit the child twice on every alternative Saturday and this order shall continue till the matter is decided by the trial Court.

This Transfer Civil Miscellaneous Petition stands disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

15.09.2023

vca/rna

Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

To

1. The Judge
Sub-Court, Alandur
2. The Judge
Family Court,
Coimbatore



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V.BHAVANI SUBBAROYAN., J.

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