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Tr.C.M.P.No.500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM:

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

Tr.C.M.P.No. 500 of 2023

and

C.M.P.No. 11971 of 2023

Susindran

... Petitioner

Vs.

K.Valarmathi

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., praying to withdraw the HMOP No.141 of 2000 on the file of Principal Subordinate Court, Kallakurichi and to transfer the same the file of the Family Court, Salem to be tried along with H.M.O.P.No.451 of 2021.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Mr.V.Gunasekar

ORDER

The petitioner/husband seeks transfer of the petition filed in H.M.O.P.No.141 of 2020 pending on the file of Principal Subordinate



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Court, Kallakurichi seeking for the relief of divorce to the file of Family Court, Salem to be tried along with H.M.O.P.No. 451 of 2021.

2. The learned counsel for respondent raised objections stating that she is living with a child and no maintenance was provided by the petitioner husband.

3. Records perused. Considering the facts and circumstances, this Court is inclined to transfer the H.M.O.P.No. 141 of 2020 filed by the petitioner husband for divorce before Principal Subordinate Court, Kallakurichi and try along with a petition filed by respondent wife for restitution of conjugal rights at Family Court, Salem but however, now the respondent wife is living with a child at Kallakurichi. Therefore, the petition filed by the Respondent wife in H.M.O.P.No.451 of 2021 for restitution of conjugal rights is ordered to be transferred to the Principal Sub-Court, Kallakurichi and try along with a petition filed in H.M.O.P.No.141 of 2020. On considering the fact that the matter is pending from the year of 2020 and the petitioner husband is also paying maintenance to her, the Principal Sub-Judge, Kallakurichi is directed to dispose the case as expeditiously as possible within a period of four months from the date of receipt of copy of



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this order. The learned trial judge is directed to transfer the case to the Principal Sub-Court, Kallakurichi within a period of two weeks from the date of receipt of copy of this order. The learned Principal Sub-Court, Kallakurichi is also directed to take case on file within period of one week from the date of receipt of papers and issue notice to the respondent as per manner known to law. Furthermore, the learned counsel for petitioner would submit that the petition filed by petitioner husband in H.M.O.P.No.141 of 2020 was dismissed for default. Hence, liberty is granted to the petitioner husband to restore the petition by filing appropriate petition before the Sub-Court, Kallakurichi. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected civil miscellaneous petition is closed.

12.12.2023

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

To
1.The Principal Subordinate Court, Kallakurichi
2.The Family Court, Salem.

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T.V.THAMILSELVI, J.

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