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Tr.C.M.P.No.594 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.594 of 2023
and
C.M.P.No.14840 of 2023

S.Syed Ali Fathima

... Petitioner

Vs.

Seeni Sahabudeen

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908 to withdraw O.S.No.158 of 2021 pending of the file of the District Munsif Court, Ramanathapuram and transfer the same to the file of the sub-Court, Alandur and pass orders.

For Petitioner : Mr. J.Shahith Ahamed

For Respondent : Mr. S.Shankar

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw O.S.No.158 of 2021 pending of the file of the District Munsif Court, Ramanathapuram and transfer the same to the file of the sub-Court,



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Alandur for further proceedings.

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2. The case of the petitioner is that she got married to the respondent on 11.02.2018 at Taj Mini Mahal, GH Road, Ramanathapuram as per the Islamic Rites and Rituals and out of the said wed lock one male child was born to them. After marriage when the couple was residing in their matrimonial home, the petitioner was subjected to cruelty by physically and psychologically and there arose difference of opinion between them. Their son is suffering from Cleft Lip and Cleft Palate deficiency for which one surgery has been done and another major surgery was fixed by the Doctors. Even after knowing all these facts, the respondent left both the petitioner and the minor child in lurch. The respondent/husband has filed a petition for divorce before the Family Court, Pondicherry in O.S.No.158 of 2021 seeking divorce and the petitioner/wife filed a petition under Domestic Violence Act in D.V.C.No.12 of 2023 against the respondent before the Additional Mahila Court, Alandur and both the cases are pending. Hence, the petitioner has filed this petition seeking to transfer the petition filed by her husband in O.S.No. 158 of 2021 on the file of the District Munsif court, Ramanathapuram to the Sub-Court, Alandur.



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3. The learned counsel for the petitioner submitted that now the petitioner is currently working in an IT Company in Chennai and her minor son is suffering from Cleft Lip and Cleft Palate deficiency and he is under treatment for the same in Chennai. Being a lady, the petitioner could not able to attend the Court proceedings in District Munsif court, Ramanathapuram. Hence, she seeks to withdraw the O.S.No. 158 of 2021 from the file of the the District Munsif court, Ramanathapuram and transfer the same to the Sub-Court, Alandur. If the case is transferred to Alandur, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by the husband.

4. 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.

5. In view of the above submission made by the learned counsel appearing for the petitioner and considering the facts and circumstances of



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the case and taking note of the fact that the petitioner cannot accompany her child during Court proceedings this Court is inclined to withdraw the O.S.No. 158 of 2021 from the file of the the District Munsif court, Ramanathapuram and transfer to the Sub-Court, Alandur.

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

29.09.2023

Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

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To

1.The District Munsif court,
Ramanathapuram.

2. The Sub-Court,
Alandur.



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V.BHAVANI SUBBAROYAN., J.

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