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Tr.CMP.No. 604 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM:

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

Tr.C.M.P. No. 604 of 2023

and

CMP.NO. 14989 of 2023

J. Rajeswari

.. Petitioner

Versus

K. Jawahar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the HMOP. No. 25 of 2023 from the file of the Subordinate Judge, Mettupalayam, and to transfer the same to the file of the Family Court, Chennai.

For Petitioner	: No Appearance
For Respondent	: Mr.B. Dinesh

ORDER

This Transfer Civil Miscellaneous petition is filed to withdraw the HMOP. No. 25 of 2023 from the file of the Subordinate Judge, Mettupalayam, and to transfer the same to the file of the Family Court, Chennai.

2. None appeared on behalf of the petitioner/wife.



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3. Heard the learned counsel for the respondent and perused the materials available on record.

4. On a perusal of the records, it is seen that the marriage was solemnized between the petitioner/wife and the respondent/husband on 29.08.2014 as per the Hindu Marriage Act, 1955. Out of their wedlock, the petitioner/wife gave birth a female child. In the meanwhile, when the Pandemic situation prevails due to the Covid-19, the respondent/husband has gone to his native place at Mettupalayam to his parents house and never bothered about the petitioner/wife and her child. After a lapse of few years, there was some difference of opinion between them, the respondent/husband has filed HMOP.No. 25 of 2023 before the learned Subordinate Judge, Mettupalayam, seeking for the relief of restitution of conjugal rights. The petitioner/wife is not in any employment. Since the parents of the petitioner/wife are aged persons and they are not in a position to render any assistance to the petitioner to conduct the case. Further, she has to take care of her young school going female child, who aged about 8 years and hence, she is unable to travel from Chennai to Mettupalayam to conduct the case for every hearings. Therefore, the petitioner/wife has come forward with the present petition under Section 24 of CPC.

5. On a further perusal of the records, it is also seen that notice was not served



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to the petitioner/wife in the original petition and hence, ex-parte order was passed by the Court below. Thereafter, the petitioner/wife has filed an application seeking to set aside the ex-parte order for non appearance of the petitioner/wife and the same was dismissed by order dated 11.08.2023 and hence, the matter was adjourned to 19.08.2023.

6. Having regard to the aforesaid facts and circumstances of the case and the submissions made by the learned counsel for both sides, this Court is inclined to pass the following order:-

(i) The Court below is directed to consider the set aside application filed by the petitioner/wife, if any, and pass appropriate orders in accordance with law.

(ii) The petitioner/wife is at liberty to file fresh Transfer Civil Miscellaneous Petition before this Court after restoration of the HMOP. No. 25 of 2023.

7. Accordingly, the Transfer Civil Miscellaneous petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.



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Index:Yes:No

Speaking order : Yes:No

Neutral Citation : Yes:No

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To

1. The Subordinate Judge, Mettupalayam.
- 2.The Family Court, Chennai.



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V. BHAVANI SUBBAROYAN, J

MSM

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