



WEB COPY

Tr.C.M.P.No.1214 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.1214 of 2022

and

C.M.P.No.20800 of 2022

M.G.Shaheen

.. Petitioner

vs

G.Rahuman

.. Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw O.S.No.24 of 2018 on the file of the IV Additional Family Court, Chennai and transfer the same on the file of the Principal District Munsif, Tirupattur, Tirupattur District.

For Petitioner : Ms.Mumtaj Surya

For Respondent : Mr.Md Ashfaq Rafi

ORDER

The transfer petition is filed to withdraw O.S.No.24 of 2018 on the file of the IV Additional Family Court, Chennai and transfer the same to the Principal District Munsif, Tirupattur, Tirupattur District.

2. The marriage between the petitioner and the respondent was



solemnized on 26.04.2015 as per the Islamic Rites and Customs. One child was born from and out of the wedlock between the petitioner and the respondent and is now aged about six years and living along with the petitioner / mother.

3. Learned counsel for the petitioner states that the respondent / husband filed O.S.No.24 of 2018 for dissolution of marriage, now pending on the file of the IV Additional Family Court. Learned counsel appearing for the petitioner states that the petitioner is unemployed and has to take care of her six year old child and thus, not in a position to spend, travel and contest the divorce case filed by the respondent. The petitioner is dependant on her parents, even for maintenance of the child and the maintenance petition filed by the petitioner is also pending.

4. Learned counsel for the petitioner states that the Court concerned has to consider grant of interim maintenance to the petitioner and to the minor child. Maintenance cases cannot be kept pending for an indefinite period, which would cause threat to the livelihood of the minor child. Courts are bound to protect the interest and the livelihood of the minor child, which is a



Fundamental Right enunciated under Article 21 of the Constitution of India.

Thus, the maintenance applications are to be considered without causing undue delay and interim maintenance is to be granted if *prima facie* case is found for the purpose of grant of maintenance.

5. Learned counsel for the respondent raised an objection by stating that there is life threat to the respondent in the event of transferring the case. There is a complaint already registered before the Police station concerned and thus, the petition is to be rejected. The suit was instituted in the year 2018 and pending for the past four years. That being the case, the apprehension raised on behalf of the respondent deserves no merit consideration and accordingly, O.S.No.24 of 2018, pending on the file of the IV Additional Family Court, Chennai stands transferred to the Principal District Munsif, Tirupattur, Tirupattur District.

6. The IV Additional Family Court, Chennai is directed to transmit the case papers within a period of two weeks from the date of receipt of a copy of this order.



7. With these directions, this transfer petition stands allowed.

Consequently, the connected miscellaneous petition is closed. There will be no order as to costs.

Index : Yes / No

25.01.2023

Speaking order / Non-speaking order

Neutral Citation: Yes/No

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To

1. The IV Additional Family Court, Chennai.

2. The Principal District Munsif, Tirupattur, Tirupattur District.



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S.M.SUBRAMANIAM, J.

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