



WEB COPY

Tr.C.M.P.No.1213 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.1213 of 2022

and

C.M.P.No.20786 of 2022

M.Jayakkodi

.. Petitioner

VS

A.Vijayakumar

.. Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw the case in G.W.O.P.No.258 of 2022 from the file of the Ld. Family Court, Cuddalore and to transfer the same to the Ld. Additional District Court, Kallakurichi for trial.

For Petitioner : Mr.Manoharan

For Respondent : Mr.M.Selvam

ORDER

The transfer petition is filed to withdraw the case in G.W.O.P.No.258 of 2022 from the file of the Family Court, Cuddalore and to transfer the same to the Additional District Court, Kallakurichi for trial.

2. The respondent instituted G.W.O.P.No.258 of 2022 on the file of the Family Court, Cuddalore seeking custody of the three year old minor child, now residing with the petitioner who is the maternal grandmother.



3. The marriage between the respondent and the daughter of the petitioner late Shobana was solemnized on 23.08.2018 as per the Hindu Rites and Customs. A male child was born on 01.07.2019 and now admittedly is with the custody of the petitioner, who is the maternal grandmother of the minor child.

4. Learned counsel for the petitioner states that under Section 9(1) of the Guardian and Wards Act, 1890, a petition seeking custody of the minor has to be filed in the place where the minor originally resides and in the present case, the minor boy is residing along with the petitioner at Kallakurichi and therefore, the petition filed by the respondent before the Court at Cuddalore is not maintainable.

5. Learned counsel for the respondent states that the petitioner is not even allowing the respondent to visit the child and he, being the natural guardian, has executed a proceeding seeking custody of the minor child.

6. Learned counsel for the petitioner made a submission that the



death of the wife of the respondent was suspicious and in this regard, a criminal case was also registered and the respondent was arrested and released on bail and the criminal case registered in Crime No.1583 of 2020 on the file of the Virudachalam Police is now under investigation.

7. Considering the totality of the circumstances, the G.W.O.P.No.258 of 2022 pending on the file of the Family Court, Cuddalore stands transferred to the Additional District Court, Kallakurichi.

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

9. 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
Speaking order / Non-speaking order
Neutral Citation: Yes/No
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27.01.2023



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To

WEB COPY

1. The Family Court, Cuddalore.

2. The Additional District Court, Kallakurichi.



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S.M.SUBRAMANIAM, J.

(drm)

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