



WEB COPY

Tr.C.M.P.No.1252 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.1252 of 2022

and

C.M.P.No.21291 of 2022

Mamtha

... Petitioner

Vs.

N.Mohamed Jalaludeen

... Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw the case in O.S.No.160 of 2021 on the file of the District Munsif Court at Sriperumbudur and transfer the same to the file of Learned Family Court, Madurai.

For Petitioner : Mr.G.Balachandar

For Respondent : Mr.D.S.Haroon Rasheed



ORDER

The petition for transfer is filed to withdraw the case in O.S.No.160 of 2021 on the file of the District Munsif Court at Sriperumbudur and transfer the same to the file of Family Court, Madurai.

2. The marriage between the petitioner and the respondent was solemnised on 08.10.2017 as per the Muslim Rites and Customs. Due to misunderstanding the petitioner and the respondent are living separately. From and out of wedlock between the petitioner and the respondent one male child was born and now studying L.K.G. in a School at Madurai. The child is now residing with the petitioner / mother. The respondent filed O.S.No.160 of 2021 for Dissolution of Marriage on the file of the District Munsif Court at Sriperumbudur.

3. The learned counsel for the petitioner states that the petitioner is unemployed and residing along with her parents at Madurai. She has to take care of her minor child, who is studying L.K.G. and thus, she is not in a position to spend, travel and contest the case filed by the respondent.



4. The learned counsel for the respondent raised an objection by stating that earlier the respondent filed O.S.No.30 of 2020, which was withdrawn subsequently. The petitioner had not contested the said case and therefore, the present petition is to be rejected.

5. However, the respondent husband once again filed the present O.S.No.160 of 2021 for dissolution of marriage and said case is to be transferred enabling the petitioner to contest the case. Since the petitioner is unemployed and taking care of the minor child, the present petition is to be considered.

6. Considering the facts and circumstances, the O.S.No.160 of 2021 pending on the file of the District Munsif Court at Sriperumbudur stands transferred to the Family Court at Madurai forthwith. The District Munsif Court at Sriperumbudur is directed to transmit the case papers to the Family Court at Madurai, within a period of four (4) weeks from the date of receipt of a copy of this order.



5. With the abovesaid directions, the Transfer Civil Miscellaneous
Petition stands allowed. However, there shall be no order as to costs.
Consequently, the connected Miscellaneous Petition is closed.

12.01.2023

Jeni
Index : Yes
Speaking order

To

1.The Judge,
District Munsif Court,
Sriperumbudur.

2.The Judge,
Family Court,
Madurai.



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S.M.SUBRAMANIAM, J.

Jeni

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