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Tr.C.M.P.No.1256 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.1256 of 2022

and

C.M.P.No.21350 of 2022

S.Phavithra

... Petitioner

Vs.

R.Rajamurthy

... Respondent

PRAYER: This Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908, read with 151 of C.P.C, to withdraw H.M.O.P.No.5212 of 2021 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of Family Court, Madurai.

For Petitioner : Mr. R.Subburaj

For Respondent : Mr.R.Rajamurthy

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner seeking to withdraw H.M.O.P.No.5212 of 2021 pending on the



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file of the VII Additional Family Court, Chennai and transfer the same to the file of Family Court, Madurai.

2.The case of the petitioner is that she got married with the respondent on 17.06.2018 at Shoba Marriage Hall, Saligramam, Vadapalani, Chennai and out of the wedlock, a female child namely Dharisini was born on 03.04.2019. The respondent was very cordial towards petitioner till 20.08.2018, thereafter, he misbehaved and began to abuse the petitioner. Further, the respondent left from the matrimonial home on 20.08.2018 and filed a petition for divorce before the VII Additional Family Court, Chennai in H.M.O.P.No.5212 of 2021, which is 450 kilometers away from the petitioner's residence. As a lady, the petitioner finds it difficult to undertake long travel to Chennai to attend the Court proceedings and the petitioner has also filed a restitution of conjugal rights against petitioner/husband in H.M.O.P.No.864 of 2022, pending on the file of the Family Court, Madurai. Hence the petitioner has filed this TR.C.M.P.No.1256 of 2022.

3.The learned counsel for the petitioner/wife submitted that now the petitioner is residing along with parents and she is also having one female



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child. The learned counsel further submitted that being a lady, she finds it very difficult to undertake long travel to Chennai, which is 450 kilometers away from her residence and she is also facing financial issues. Hence, he prays to transfer the H.M.O.P.No.5212 of 2021, pending on the file of the VII Additional Family Court, Chennai to the file of the Family Court, Madurai.

4. The learned counsel for the respondent/husband has not made any serious objection to transfer the H.M.O.P.No.5212 of 2021 pending on the file of the VII Additional Family Court, Chennai to the file of the Family Court, Madurai.

5. 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.

6. 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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V.BHAVANI SUBBAROYAN, J.

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the case and child cannot accompany her during Court proceedings, this Court is inclined to withdraw the H.M.O.P.No.5212 of 2021 from the file of the learned VII Additional Family Court at Chennai and transfer to the file of the Family Court, Madurai.

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

21.07.2023

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

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To

- 1.The Family Court, Chennai.
2. The Family Court,Madurai.

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