



WEB COPY



Tr.CMP.No.1314 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2023

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Tr.CMP.No.1314 of 2022

and

C.M.P.No.22234 of 2022

V.J.Priyanka

...Petitioner

Vs.

K.I.Logesh Krishnan

...Respondent

PRAYER: This Transfer Civil Miscellaneous Petition had been filed under section 24 of the Code of Civil Procedure Code, 1908 to transfer the case filed by the Respondent in HMOP No.4188 of 2021 on the file of the Hon'ble III Additional Family Court, Chennai to Sub Court Alandur.

For Petitioner : Mrs.Malini George
For Respondent : Mr.Davidson Devashish
for Mr.S.Thomas S Jacob

ORDER

This Transfer Civil Miscellaneous Petition had been filed under Section 24 of the Code of Civil Procedure, 1908 to transfer the case filed by the Respondent in H.M.O.P.No.4188/2021 on the file of the III Additional



Tr.CMP.No.1314 of 2022

Family Court, Chennai to Sub Court, Alandur.

WEB COPY

2. It is the submission of the Learned Counsel for the Petitioner/wife that the husband had created documents to show that both were residing in Chennai and had instituted HMOP No.4188 of 2021. It is the further contention of the learned Counsel for the Petitioner that the Petitioner had filed maintenance case before the Additional Mahila Court, Alandur.

3. Learned Counsel for the Respondent/husband vehemently objects stating that the Petitioner is seeking withdrawal of the case from the Family Court, Chennai, which is a Special Court to conduct trial of matrimonial disputes. Therefore, the case pending before the Family Court cannot be transferred to the Courts other than the Family Court. The objection of the learned Counsel for the Respondent/husband that the learned Judge in Family Court alone can dispose of the matrimonial disputes is found unreasonable. The Judge presiding in Sub Courts also are trained to dispose matrimonial disputes. Therefore, the objection of the learned Counsel for the Respondent/husband is rejected.

4. Some guidelines issued by the Hon'ble Supreme Court that in cases



Tr.CMP.No.1314 of 2022

involving matrimonial disputes, the case shall be instituted within the jurisdiction where the wife resides, and in those circumstances, the learned Counsel for the Respondent/husband cannot object the prayer for the Petitioner seeking withdrawal of the aforesaid HMOP pending on the file of the learned III Additional Family Court, Chennai.

5. It is pointed out to the learned Counsel for the Respondent that the Judicial Officers who handle the cases of family dispute, are sensitized and trained in the Judicial Academy across the Country.

6. The objection of the learned Counsel for the Respondent/husband for transfer of the case from the Family Court, Chennai with regard to the matrimonial dispute, cannot be considered in this Transfer Civil Miscellaneous Petition.

7. In the result, this Transfer Civil Miscellaneous Petition stands allowed. The case in HMOP No.4188 of 2021 is withdrawn from the file of the III Family Court, Chennai and it shall stand transferred to the file of the Additional Mahila Court, Alandur. The Respondent/husband is directed to



Tr.CMP.No.1314 of 2022

appear before the learned Judge at the Additional Mahila Court, Alandur, within one month's time, and the learned III Additional Judge, Family Court, Chennai shall send the records within 15 days time from the date of receipt of copy of this order.

8. The Learned Additional Judge, Mahila Court, Alandur is directed to issue summons/notice to the Respondent/husband under the said HMOP, after receipt of the records, and on appearance of the Respondent/husband, the learned Judge shall dispose of the case as per priority of the pending HMOP cases. Consequently, the connected miscellaneous petition is closed. No Costs.

15.02.2023

nst

Index : Yes / No

Speaking Order: Yes/no

Neutral Citation Case: Yes/No

To

1.The III Addl.Family Judge, Chennai

4/11



Tr.CMP.No.1314 of 2022

2.The Sub-Judge, Alandur.

3. Addl. Mahila Judge, Alandur.

WEB COPY

SATHI KUMAR SUKUMARA KURUP., J.

nst



WEB COPY



Tr.CMP.No.1314 of 2022

Tr.CMP.No.1314 of 2022
and
C.M.P.No.2819 of 2023

15.02.2023

Tr.CMP.No.1314 of 2022
in
C.M.P.No.22234 of 2022



Tr.CMP.No.1314 of 2022

SATHI KUMAR SUKUMARA KURUP, J.,

WEB COPY

Today, the above Transfer Civil Miscellaneous Petition is posted under the caption "For Being Mentioned" at the instance of the learned Counsel for the Petitioner.

2. The learned Counsel for the Petitioner sought to mention the case regarding the order passed in Tr.CMP.No.1314 of 2022 wherein the Wife is the Petitioner in Transfer Civil Miscellaneous Petition. The Wife had filed Transfer Civil Miscellaneous Petition seeking to withdraw the case in H.M.O.P.No.4188 of 2021 pending on the file of the learned III Additional Judge, Family Court, Chennai and transfer the same to the file of the Sub Judge, Alandur. In the order dated 15.02.2023 instead of **Sub Court, Alandur** it was mentioned as “**Additional Mahila Court, Alandur.**” Therefore, the defect pointed out by the learned Counsel for the Petitioner is set right in paragraph Nos.7 & 8 of the order. It should be read as **Sub Court, Alandur** in the place of **Additional Mahila Court, Alandur.**

3.This Court vide order dated 15.02.2023 passed the following order:

7. In the result, this Transfer Civil Miscellaneous



Tr.CMP.No.1314 of 2022

Petition stands allowed. The case in HMOP No.4188 of 2021 is withdrawn from the file of the III Family Court, Chennai and it shall stand transferred to the file of the Additional Mahila Court, Alandur. The Respondent/husband is directed to appear before the learned Judge at the Additional Mahila Court, Alandur, within one month's time, and the learned III Additional Judge, Family Court, Chennai shall send the records within 15 days time from the date of receipt of copy of this order.

8. The Learned Additional Judge, Mahila Court, Alandur is directed to issue summons/notice to the Respondent/husband under the said HMOP, after receipt of the records, and on appearance of the Respondent/husband, the learned Judge shall dispose of the case as per priority of the pending HMOP cases. Consequently, the connected miscellaneous petition is



Tr.CMP.No.1314 of 2022

closed. No Costs.

4.Considering the submission of the learned Counsel for the Petitioner, the same should be read as follows:

*7. In the result, this Transfer Civil Miscellaneous Petition stands allowed. The case in HMOP No.4188 of 2021 is withdrawn from the file of the learned III Additional Judge, Family Court, Chennai and it shall stand transferred to the file of the **Sub Court, Alandur** . The Respondent/husband is directed to appear before the learned Sub Judge at the **Sub Court, Alandur**, within one month's time, and the learned III Additional Judge, Family Court, Chennai shall send the records within 15 days time from the date of receipt of copy of this order.*

*8. The Learned **Sub Judge, Alandur**, is directed to issue summons/notice to the Respondent/husband under*



WEB COPY



Tr.CMP.No.1314 of 2022

*the said HMOP, after receipt of the records, and on appearance of the Respondent/husband, **the learned Judge shall dispose of the case as expeditiously as possible.** Consequently, the connected miscellaneous petition is closed. No Costs.*

5.Registry is directed to carry out the necessary corrections and issue a fresh order copy to both parties.

23.08.2023

vsn

Note:Issue Order copy on 23.8.223



WEB COPY



Tr.CMP.No.1314 of 2022

SATHI KUMAR SUKUMARA KURUP, J.,

vsn

Tr.CMP.No.1314 of 2022
in
C.M.P.No.22234 of 2022

23.08.2023