



Tr.C.M.P.(MD) No.91 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P.(MD) No.91 of 2023

and

C.M.P(MD)Nos.2305 and 3272 of 2023

S.Subhashini

... Petitioner/Respondent

-VS-

A.Swaminathan

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw the petition for divorce in H.M.O.P.No.443 of 2022 pending on the file of the Sub-Court, Alandur, Kanchipuram District and transfer the same to the file of the Family Court, Madurai to be tried jointly with the H.M.O.P.No.61 of 2023.

For Petitioner : Mr.P.Muthusamy

For Respondent : M/s.Aasha, for

Mr.William Sakespere



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ORDER

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.443 of 2022 pending on the file of the Sub-Court, Alandur, Kanchipuram District and transfer the same to the file of the Family Court, Madurai, to be tried jointly with the H.M.O.P.No.61 of 2023.

2.The respondent/husband has filed H.M.O.P.No.443 of 2022 to dissolve the marriage with the petitioner on the ground of desertion. The petitioner/wife, on the other hand, filed H.M.O.P.No.61 of 2023 for restitution of conjugal rights.

3.The learned counsel appearing for the respondent/husband states that the minor daughters are under the care and custody of the respondent and therefore, it may not be feasible for the respondent get travel.

4.On the other hand, the learned counsel for the petitioner/wife would submit that the distance between Chennai and Madurai is approximately 450 kms and therefore, it may not be feasible for the petitioner to travel from Madurai to Chennai.



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5.That apart, it is submitted that the respondent/husband has deliberately filed H.M.O.P.No.443 of 2022 before the Sub-Court, Alandur, with a view to harass the petitioner/wife.

6.I have considered the arguments advanced by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

7.In spite of granting interim stay by this Court, on 23.02.2023, the respondent has filed a petition in C.M.P(MD)No.3272 of 2023 to vacate the interim stay. Both the parties have made several averments filed in support of the affidavit of the transfer civil miscellaneous petition as well as the affidavit filed for vacating the interim stay granted by this Court, alleging which touch of the merits of the case, which are not relevant.

8.From the reading of the records that are available before this Court indicate that the respondent is residing in Chennai along with his parents and siblings. The petitioner, on the other hand, is residing in Madurai along with her



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parents. Though the respondent is taking care of the child, there is no prejudice would be caused to him if the transfer of H.M.O.P., is ordered, considering the fact that the children welfare can be taken care of by the respondent's parents, when the case is called for hearing at Maudrai. This Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.443 of 2022 pending on the file of the Sub-Court, Alandur, Kanchipuram District, is therefore directed to withdraw and transfer to the file of the Family Court, Madurai, to be tried along with the H.M.O.P.No.61 of 2023. The personal appearance of the respondent for routine hearing is dispensed with before the Family Court, Madurai. However, the respondent shall appear before the Court as and when ever the presence of the respondent is required as per the direction of the Family Court, Madurai. No costs. Consequently, connected miscellaneous petitions are closed.

20.03.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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To:

- 1.The Sub-Court,
Alandur,
Kanchipuram District.
2. The Family Court,
Madurai.



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C.SARAVANAN, J.

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Order made in
Tr.C.M.P.(MD) No.91 of 2023
and
C.M.P(MD)Nos.2305 and 3272 of 2023

Dated:

20.03.2023