



Tr.C.M.P.(MD)No.105 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
19.04.2023	28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P.(MD)No.105 of 2023
and
C.M.P.(MD)No.2472 of 2023

R.Switha Shri

.. Petitioner

Versus

Deepak Raj

.. Respondent

Prayer :- Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.19 of 2021, on the file of the Sub Court, Tambaram, and transfer to the file of the Sub Court, Thirumangalam, Madurai, for disposal.

For Petitioner : Mr.G.Vidhya Maheswaran

For Respondent : Mrs.Vijayakumari Natarajan

ORDER

The petitioner has filed this Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.19 of 2021, from the file of the Sub Court, Tambaram, and transfer the same to the file of the Sub Court, Tirumangalam, Madurai District.

2. Earlier, this Court by an order dated 13.04.2023, allowed the Transfer Civil Miscellaneous Petition. However, it was recalled today by a separate order, as the respondent had entered appearance, but her name was not printed in the cause list.



3.Today, this case was heard at length. The learned counsel for the respondent submitted that H.M.O.P.No.19 of 2021, pending on the file of the Sub Court, Tambaram, is almost at the final stage, as the respondent has been examined and cross-examined and the evidence of the respondent as petitioner in H.M.O.P.No.19 of 2021 was closed on 04.08.2022. Thereafter, the petitioner herein, who is the respondent in H.M.O.P.No.19 of 2021 was to tender her evidence.

4.It is submitted that the case was listed before the Lok Adalat and a Terms of Agreement was signed, pursuant to which, the dispute was amicably settled. However, after signing the agreement before the Lok Adalat on 07.12.2022, the petitioner has engaged another counsel and has surreptitiously filed the present Transfer Civil Miscellaneous Petition, seeking transfer of H.M.O.P.No.19 of 2021 from the file of the Sub Court, Tambaram, to the file of the Sub Court, Tirumangalam, Madurai District.

5.The learned for the respondent submitted that the respondent is the only son to his parents and that his father is unwell and is undergoing treatment. That apart, it is submitted that the allegation levelled against the respondent that his family members had threatened the petitioner is inconceivable, but nothing a tissue of life. It is further submitted that the respondent's father is frequently being admitted in hospital and his health condition is deteriorating very fast and therefore, the presence



of the respondent is required in Chennai. It is, therefore, submitted that the respondent cannot be forced to travel from Chennai to Madurai to attend the Court proceeding.

6.It is also submitted by the learned counsel for the respondent that the petitioner has suppressed the fact regarding the status of the case in H.M.O.P.No.47 of 2021, filed by her under Section 13,(1)(ia)(ib) of the Hindu Marriage Act, 1955, before the Sub Court, Devakottai.

7.The petitioner has, however, filed an additional affidavit, wherein she has stated that she was forced to sign the Compromise Memo before the Lok Adalat only for return of articles.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent and also perused the affidavit filed in support of the present Transfer Civil Miscellaneous Petition.

9.In my view, no useful purpose will be served at this stage of the proceeding, by ordering transfer of H.M.O.P.No.19 of 2021 pending on the file of the Sub Court, Tambaram, to the file of the Sub Court, Tirumangalam, Madurai District. As the petitioner has participated in the trial before the Sub Court at Tambaram, she is



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required to depose evidence before it and thereafter, the learned Sub Judge, Tambaram, has to pronounce the judgment and decree.

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10.Considering the above, I am inclined to dismiss the Transfer Civil Miscellaneous Petition filed by the petitioner. However, there shall be a direction to the respondent to pay for the expenses, regarding travelling, boarding and lodging of the petitioner in connection with H.M.O.P.No.19 of 2021, pending on the file of the Sub Court, Tambaram. As an advance, the respondent shall deposit a sum of Rs.10,000/- for each hearings to the credit of H.M.O.P.No.19 of 2021 before the Sub Court, Tambaram, to be withdrawn by the petitioner on filing appropriate application. It is made clear that the petitioner shall co-operate with the Sub Court, Tambaram, so that the Court can dispose H.M.O.P.No.19 of 2021 filed by the respondent, as expeditiously as possible.

11.This Transfer Civil Miscellaneous Petition stands dismissed with the above observation and directions. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
smn2

28.04.2023



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To

1.The Sub Judge,
Tambaram.

2.The Sub Judge,
Tirumangalam,
Madurai District.



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C.SARAVANAN, J.

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Pre-Delivery Order made in
Tr.C.M.P.(MD)No.105 of 2023

28.04.2023