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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

Tr.C.M.P(MD)No.186 of 2023

and

C.M.P.(MD).No.4035 of 2023

Gayathri

... Petitioner/

Respondent

Vs.

Sathiyamoorthy

... Respondent/

Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.No.15 of 2023 pending on the file of the learned Subordinate Judge, Lalgudi, Trichy District and transfer the same to the Family Court Judge, Thanjavur.

For Petitioner

:Mr.P.Vadivel

For Respondent

:No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.15 of 2023 pending on the file of the learned Subordinate Judge, Lalgudi, Trichy District and transfer the same to the Family Court Judge, Thanjavur.



2.Heard the learned counsel appearing for the petitioner.

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3.Since no adverse order is going to be passed as against the respondent, notice to the respondent is dispensed with.

4.The learned counsel appearing for the petitioner/wife would submit that the marriage between the petitioner and the respondent was solemnized on 01.06.2014. The respondent/husband, who is none other than the brother of her mother. Due to cruelty, the petitioner left the matrimonial home on 15.01.2017 and living separately for more than six years. Since there is no possibility of reunion between themselves, the petitioner filed a petition in H.M.O.P.No.203 of 2021 before the Family Court, Thanjavur, for dissolution of marriage, in which, the respondent had entered appearance and filed his counter and the case was posted on 13.03.2023. During the pendency of the said proceedings, the respondent has filed a petition in H.M.O.P.No.15 of 2023 before the Sub-Court, Lalgudi, for restitution of conjugal rights. Now the petitioner is residing in her parental home at Thanjavur and the distance between Thanjavur and Lalgudi is approximately 75 kms. Therefore, it may not be feasible for the petitioner to travel from Thanjavur to Lalgudi and hence, he prays for transferring the case from Lalgudi Subordinate Court to the Family Court, Thanjavur.



5.It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference.

Therefore, I am of the view that the petition filed by the wife is liable to be ordered.

6.Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P.No.15 of 2023 pending on the file of the Sub-Court, Lalgudi, Trichy District, is ordered to be withdrawn and transferred to the file of the Family Court, Thanjavur to be tried along with H.M.O.P.No.203 of 2021. The learned Subordinate Judge, Lalgudi, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.15 of 2023 to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, the connected miscellaneous petition is closed.

07.07.2023

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



K.GOVINDARAJAN THILAKAVADI, J.

Ns

To

1.The Family Court,
Thanjavur.

2.The Subordinate Court,
Lalgudi, Trichy District.

3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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