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Tr CMP (MD) No.223 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P.(MD) No.223 of 2023

and

CMP(MD)No.4800 of 2023

S.Archana

... Petitioner

-VS-

R.Preetham

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.359 of 2022 pending on the file of the Family Court, Madurai and transfer the same to the Sub Court, Manamadurai or any other competent court in Sivagangai within the time stipulated by this Court.

For Petitioner : Mr.R.Senthil Kumar

For Respondent : Mr.S.Kumar

ORDER

The present transfer civil miscellaneous petition has been filed to transfer HMOP.No.359 of 2022 from the Family Court, Madurai to the Sub Court, Manamadurai.

2.The learned counsel appearing for the petitioner submits that the



marriage between the petitioner and the respondent was solemnized in Madurai on 14.03.2022. It appears that the parties started their matrimonial journey in Coimbatore and lived only for a period of 12 days and have parted. The respondent has initiated proceedings to dissolve the marriage by filing H.M.O.P.No.359 of 2023 before the Family Court, Madurai. The petitioner has prayed for transferring the case pending on the file of the Family Court, Madurai to Sub Court, Manamadurai.

3.Paragraph nos.9 and 10 of the affidavit reads as under:-

“9.I humbly submit that now I am living in my parents house and leading a pitiful life whereas the respondent is living a lavish life without concerning me. The distance between Manamadurai to Madurai is more than 55 kms on one side. So for, to and fro it is nearly 110 kms. Being lonely woman, it is very difficult for me to attend every Court hearings at Madurai and I am not having enough income to spend on transportation to attend Court hearings at Madurai.

10.I humbly submit that even I am having apprehension of my life and limb if I travel alone to attend the Court hearings and hence, it is thus just and necessary that this Honourable Court may be pleased to transfer the above petition in H.M.O.P.No.359 of 2022 on the file of the learned Family Court, Madurai to the learned Sub Court, Manamadurai otherwise I will be put to great loss and hardship.”

4.The learned counsel for the respondent has not denied the same.

5.That apart there is hardly any causal connection in Madurai to initiate divorce proceedings before the Family Court at Madurai except for solemnization



Tr CMP (MD) No.223 of 2022

of the marriage at Madurai. The Court will always be guided by the principles of forum convenience as made applicable to international dispute, which has been made applicable to writ petition by the Hon'ble Supreme Court in the decision of ***Kusum Ingots Alloys Limited v. Union of India*** reported in ***(2004) 6 SCC 254***. This principle has been applied to civil disputes. It is equally applicable to matrimonial dispute. The respondent is in Manamadurai.

6.Considering the above, Court is inclined to allow this petition. Hence, H.M.O.P. No. 359 of 2022 is directed to be transferred from the file of the Family Court, Madurai to Sub Court, Manamadurai. The Sub Court, Manamadurai, shall endeavour to complete the proceedings preferably within a period of 12 months from the date of receipt of copy of this order.

7.With the above observation, this Transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2023

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



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Tr CMP (MD) No.223 of 2023

C.SARAVANAN, J.

Mrn

To:

- 1.The Family Court, Madurai.
- 2.The Sub Court, Manamadurai.

Order made in
Tr.C.M.P.(MD) No.223 of 2023

23.06.2023