



TR.C.M.P.(MD) No.241 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

TR.C.M.P.(MD) No.241 of 2023

and

C.M.P.(MD) No.5339 of 2023

K.Sharmila Banu

... Petitioner

Vs.

M.Moshinkhan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, to order withdrawal of the matrimonial original suit bearing O.S.No.32 of 2023 from the file of the District Munsif Court, Paramakudi and transfer the same to the Principal District Family Court, Chennai.

For Petitioner : Mr.S.Prakash

For Respondent : Mr.K.Yasar Arafath

ORDER

This Transfer Civil Miscellaneous Petition has been filed to transfer O.S.No.32 of 2023 from the District Munsif Court, Paramakudi to the Principal Judge, Family Court, Chennai.



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2. Earlier the petitioner had filed M.C.No.154 of 2017 before the VI Additional Family Court, Chennai which came to be allowed on 17.10.2019. Aggrieved by the same, the respondent had filed Crl.R.C.No. 437 of 2020 before the Madras High Court (Principal Seat of this Court), Chennai which came to be dismissed on 31.01.2023.

3. The one of the defences taken by the respondent before the Madras High Court (Principal Seat of this Court), Chennai was that he was expelled from the HCL Company at Chennai. However, the Court while dismissing Crl.R.C.No.437 of 2020 by its order dated 31.01.2023, has found that the respondent left the job in order to avoid the payment to the petitioner and thus, the Court has ordered a sum of Rs.25,000/- per month towards maintenance to the petitioner.

4. It appears that the respondent has not complied with the above order of the Madras High Court (Principal Seat of this Court), Chennai confirming the decision of the Family Court, Chennai in M.C.No.154 of 2017.



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5. The specific allegation of the respondent is that the petitioner's father and brother had indulged in physical assault and therefore the case is pending against them in FIR in Crime No.822/2017 and Crime No. 1104/2017 dated 05.07.2017 & 31.07.2017.

6. On the other hand, the petitioner in the affidavit filed in support of the present Transfer Civil Miscellaneous Petition has stated as follows:-

10. I respectfully submit that as I already stated I am living in Chennai along with children and my aged parent, My Children are also studying in Chennai, now it will be very difficult for me to go to District Munsif Court, at Paramakudi, for every time to attend the Respondent case from my residence at Chennai, for attending court proceedings. And moreover, the Respondent is also residing at Chennai. Hence, it is just and necessary to transfer the said O.S.No.32 of 2022 pending on the file of District Munsif Court, at Paramakudi to Principal Judge, Family Court, at Chennai District.

7. Being satisfied with the above reasons, I am inclined to allow this Transfer Civil Miscellaneous Petition. O.S.No.32 of 2023 is directed to be transferred from the District Munsif Court, Paramakudi to the Principal Judge, Family Court, Chennai.



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8. The physical presence of the respondent before the Family Court, Chennai shall be dispensed with for regular and routine hearing. The respondent shall however appear through his counsel. The respondent shall appear in person before the Family Court, Chennai as and when the physical presence of the respondent is required.

9. It is made clear that in case any harm is caused to the respondent while attending the court proceedings, this Court will intervene and re-transfer the case back to the District Munsif Court, Paramakudi.

10. The Principal Judge, Family Court, Chennai shall endeavour to dispose of the O.S.No.32 of 2023 (after re-numbering), as expeditiously as possible, preferably, within a period of 12 months from the date of receipt of a copy of this order.

11. This Transfer Civil Miscellaneous Petition is allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

19.06.2023

NCC : Yes / No
Internet: Yes/No
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To

1.The District Munsif Court,
Paramakudi.

2.The Principal Judge,
Family Court, Chennai.



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C.SARAVANAN, J.

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