



TR.C.M.P.(MD) No.389 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

CORAM:

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

TR.C.M.P.(MD) No.389 of 2023
and
C.M.P(MD) No.8244 of 2023

Sharanya Sundar @ Sharanya Samuel Tensingh
W/o.E.T.B.Samuel Jigme Harrison

... Petitioner

Vs.

E.T.B.Samuel Jigme Harrison
S/o.E.J.Tensingh

... Respondent

Prayer :- Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the D.O.P.No.75 of 2023 pending on the file of Family Court, Thoothukudi and transfer the same to the file of Principal District Court, Tirunelveli, to be tried along with D.O.P.No.144 of 2023.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.R.Maheswaran



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ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the D.O.P.No.75 of 2023 pending on the file of Family Court, Thoothukudi and transfer the same to the file of Principal District Court, Tirunelveli, to be tried along with D.O.P.No.144 of 2023.

2.The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent has been solemnized on 16.04.2021. Due to the dispute arose between them, the respondent/husband filed a petition in D.O.P.No.75 of 2023 on the file of the Family Court, Thoothukudi, for divorce. Pursuant to which, the petitioner/wife filed a petition in D.O.P.No.144 of 2023 for restitution of conjugal rights before the Principal District Court, Tirunelveli, seeking the relief of restitution of conjugal rights. He would further submit that since the proceeding is pending before the Family Court, her presence for every hearing is imperative and it would be difficult for the petitioner to travel alone and she has to be accompanied by some one, which would result in an additional expenditure and also cause great discomfort and



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inconvenience to her health and life. He would further submit that as there are two cases pending before two different Courts, even if both the cases are taken up for hearing on the same day, it will become very difficult for her to attend both the hearings. Further, to avoid conflicting judgments also, both the case has to be tried by the same Court. Hence, he prays to allow this petition.

3. The learned counsel for the respondent would submit that the respondent is now residing at Thoothukudi and therefore, the petition seeking transfer would lead to disadvantage of the respondent. However, he states that a time frame may be fixed for the disposal of the D.O.P proceedings.

4. Heard on both sides and perused the records.

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, taking into account the above circumstances, this



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Court is of the view that the transfer civil miscellaneous petition is liable to be ordered. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the petition in D.O.P.No.75 of 2023 pending on the file of the Family Court, Thoothukudi, is ordered to be withdrawn and transferred to the file of the Principal District Court, Tirunelveli, to be heard along with D.O.P.No.144 of 2023. The learned Judge, Family Court, Thoothukudi, is directed to transmit the entire records pertaining to the case in D.O.P.No.75 of 2023 to the transferee Court, within a week from the date of receipt of a copy of this order. The learned Principal District Judge, Tirunelveli, shall endeavour to dispose of the said DOP on merits and in accordance with law, as expeditiously as possible, however, not later than the period of four months from date of receipt of the entire records from the Family Court, Thoothukudi. No costs. Consequently, connected miscellaneous petition is closed.

01.09.2023

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



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To

1.The Judge,
Family Court,
Thoothukudi.

2.The Principal District Judge,
Tirunelveli.



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K.GOVINDARAJAN THILAKAVADI, J.

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