



Tr.C.M.P.(MD) No.385 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

Tr.C.M.P.(MD) No.385 of 2023

and

C.M.P(MD) No.8167 of 2023

Suba Sandhiya Murugan

... Petitioner

Vs.

Manikandan Ganesan

... Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw the H.M.O.P.No.313 of 2022 on the file of the Sub Court, Alandur and transfer the same to the file of the Family Court, Nagercoil.

For Petitioner : Mr.M.Subbiah

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the wife for transfer of H.M.O.P.No.313 of 2022 from the file of the Sub Court, Alandur to the file of the Family Court, Nagercoil.



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2. Despite notice being served on the respondent/husband, there is no representation on the side of the respondent/husband.

3. According to the petitioner/wife, the respondent/husband filed H.M.O.P.No.313 of 2022 before the Sub Court, Alandur for dissolution of marriage solemnized between the petitioner and the respondent on 16.06.2016, on the ground of cruelty and at the same time, the petitioner/wife filed maintenance petition before the Family Court, Nagercoil in M.C.No.115 of 2022 which was dismissed for default and thereafter, she filed a restoration petition which is pending.

4. It is submitted that the petitioner/wife and her minor child aged about 6 years are living under the shelter of her widow mother as the respondent/husband did not pay any amount of maintenance, she is not in a position to travel about 1410 kms. up and down along with her minor child for attending the Court at Alandur.

5. It is further submitted that the legislature under Section 19(iii-a) of the Hindu Marriage Act, 1955 enables the wife to file a petition under Section 19 of the Act in a place where she is residing on the date of presentation of the



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petition and therefore, the intention of the legislature is that the women need not be driven anywhere to seek remedy under the Act and she can file petition where she is residing. It is also submitted that the implied purpose and object of inserting Section 19(iii-a) of the Act is to facilitate the women to conduct the case where she is residing which can be extended to defend also.

6. The Hon'ble Supreme Court in the case of **Aarti Rani @ Pinki Devi and others Vs Dharmender Kumar Gupta** reported in **2008 (9) SCC 353** held that convenience of woman is to be taken into consideration.

7. Therefore, considering the facts and circumstances of the case, H.M.O.P.No.313 of 2022 is directed to be transferred from the file of the Sub Court, Alandur to the file of the Family Court, Nagercoil.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed.
No cost. Consequently, connected Miscellaneous Petition is closed.

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NCC :Yes/No
Internet: Yes/No
Index: Yes/ No
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K.GOVINDARAJAN THILAKAVADI, J.

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To

- 1.The Sub Judge,
Alandur.
- 2.The Judge,
Family Court, Nagercoil.

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