



C.R.P(MD)No.1845 of 2022 & Tr.C.M.P(MD)No.634 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.02.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1845 of 2022
and
Tr.C.M.P(MD)No.634 of 2022
and
C.M.P(MD)No.8293 & 10166 of 2022

C.R.P(MD)No.1845 of 2022:

Nallasivan

... Petitioner/ Respondent/
Respondent

Vs.

Saraswathi

... Respondent/ Petitioner/
Petitioner

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records and set aside the fair and decreetal order dated 26-10-2021 passed in I.A.No.1 of 2020 in H.M.O.P.No.169 of 2019 on the file of the Sub-Court, Sankarankovil and consequently allow this civil revision petition.

For Petitioner : Mr.S.Uma Maheswaran



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For Respondent : Mr.S.Palani Velayutham

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Tr.C.M.P(MD)No.634 of 2022:

Saraswathi

... Petitioner/ Respondent

Vs.

Nallasivan

... Respondent/ Petitioner

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to pass an order to withdraw the case bearing H.M.O.P.No.46 of 2022 on the file of the Sub Judge, Valliyoor, Tirunelveli District and subsequently transfer the same and club along with H.M.O.P.No.169 of 2019 on the file of the Sub Court, Sankarankovil, Tenkasi District forthwith.

For Petitioner : Mr.S.Palani Velayutham

ORDER

C.R.P(MD)No.1845 of 2022 has been filed by the husband challenging an order passed by Sub Court, Sankarankovil directing him to undergo medical test relating to his potency on an application filed by his wife. The Wife has filed H.M.O.P.No.169 of 2022 on the file of Sub Court, Sankarankovil seeking divorce.



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2. Tr.C.M.P(MD)No.634 of 2022 has been filed for transferring H.M.O.P.No.46 of 2022 to be tried along with H.M.O.P.No.169 of 2019. The learned counsel appearing on either side submit that the matter was referred to mediation and they have settled the issues. The parties have decided to file an application under Section 13 (B) of the Hindu Marriage Act to dissolve the marriage by consent.

3. In view of the settlement arrived at by the parties, nothing requires to be adjudicated in the revision petition as well as in the transfer civil miscellaneous petition.

4. However, the learned counsel appearing on either side request the Court that the cooling period of six months may be waived in view of the fact that the divorce petition is pending from the year 2019 onwards. In view of the judgment of this Court, the cooling period of six months is only directory and not mandatory. As and when such an application is filed, the concerned Court shall consider it positively and pass orders.



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5. With the above said observations, the Civil Revision Petition as well as Transfer Civil Miscellaneous Petition are disposed of. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

10.02.2023

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

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To

- 1.The Sub-Court,
Sankarankovil.
2. The Sub Court,
Valliyoor,
Tirunelveli District.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.1845 of 2022
and
Tr.C.M.P(MD)No.634 of 2022

10.02.2023