



TR.C.M.P.(MD) No.418 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM

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

TR.C.M.P.(MD) No.418 of 2023

and

C.M.P.(MD) No.8725 of 2023

V.Mareeshwari

... Petitioner

Vs.

S.Samidurai

... Respondent

Prayer:- This Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, 1908, to withdraw H.M.O.P.No.87 of 2023 on the file of the Principal Subordinate Court, Tenkasi and transfer the same to the file of the Family Court, Tirunelveli and try along with H.M.O.P.No.457 of 2022.

For Petitioner : Mr.R.J.Karthick

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the wife for transfer of H.M.O.P.No.87 of 2023 from the file of the Principal



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Subordinate Court, Tenkasi to the file of the Family Court, Tirunelveli to be tried along with H.M.O.P.No.457 of 2022.

2. According to the petitioner/wife, the marriage was solemnized between the petitioner and the respondent on 15.10.2011 and a male child was born on 09.05.2020. It is submitted that due to the some matrimonial discord and due to the harassments made by the respondent/husband and his family members, the petitioner lodged several complaints before the police and finally left out from the matrimonial home along with the minor child.

3. It is further submitted that thereafter, the petitioner/wife filed H.M.O.P.No.457 of 2022 before the Family Court, Tirunelveli for dissolution of marriage. At the same time, to escape from the clutches of law, the respondent/husband filed H.M.O.P.No.87 of 2023 before the Principal Subordinate Court, Tenkasi for restitution of conjugal rights.

4. It is submitted that the distance between the Annanagar, Tirunelveli and Tenkasi is about 130 kms. which may take minimum of 3 hours time to travel on road and being the woman, the petitioner/wife has



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to depend on her parents for attending the Court. It is submitted that the petitioner's parents are suffering from old age ailments and they could not accompany the petitioner to attend the hearings at Principal Subordinate Court, Tenkasi. Therefore, it is very difficult for the petitioner to travel all along.

5. It is further submitted that the petitioner is scared of going to Tenkasi since the respondent/husband is an influence person in that locality and he may do anything to achieve his needs. Therefore, the petitioner/wife was constrained to approach this Court for transfer of H.M.O.P.No.87 of 2023 from the file of the Principal Subordinate Court, Tenkasi to the file of the Family Court, Tirunelveli to be tried along with H.M.O.P.No.457 of 2022 filed by the petitioner/wife.

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.



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7. Therefore, considering the facts and circumstances of the case, H.M.O.P.No.87 of 2023 is directed to be transferred from the file of the Principal Subordinate Court, Tenkasi to the file of the Family Court, Tirunelveli to be tried along with H.M.O.P.No.457 of 2022.

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

23.08.2023

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

1.The Principal Subordinate Judge, Tenkasi.

2.The Judge, Family Court, Tirunelveli.

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