



Tr.CMP(MD)No.580 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Tr.CMP(MD)No.580 of 2022
and
CMP(MD)No.9305 of 2022

K.S.Lavanya @ Jothimani

: Petitioner

Vs.

S.Gangadharan

: Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code to withdraw the case in H.M.O.P.No.43 of 2022 on the file of the Additional Sub Court, Dharmapuri and transfer the same to the Sub Court, Madurai.

For Petitioner : Ms.G.K.Chitra Devi

For Respondent : Mr.D.Shanmugaraja Sethupathi

ORDER

The petitioner and the respondent are wife and husband. Their marriage was solemnized on 03.06.2009 at R.S.S.Mahal, Thoppur, Dharmapuri District and out of the wedlock, they are having a male child. The relationship between the parties came under strain and the respondent / husband has filed H.M.O.P.No.43 of 2022



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before the Sub Court, Dharmapuri, seeking divorce. In order to transfer this application from the file of the Sub Court, Dharmapuri to the file of the Sub Court, Madurai, the petitioner has moved the instant transfer civil miscellaneous petition.

2. Learned Counsel for the petitioner submitted that the petitioner is residing at Madurai in her parental house, along with her 12 year old son. The distance between Madurai and Dharmapuri is 600 km. She is not having sufficient means to travel and to meet her day-to-day expenses and there is no one to accompany her. Therefore, she finds it very difficult to travel and to appear before the Court at Dharmapuri, for each and every hearing. In fact, when the case was posted on 26.04.2022, the petitioner could not appear before the Court and an *ex-parte* order was passed. Thereafter, by filing an application, the said *ex-parte* was cancelled. Therefore, the learned Counsel prayed for transferring the case.

3. Learned Counsel for the respondent raised serious allegations as against the petitioner that the petitioner is not having any interest in continuing the marital life and is having illegal relationship with a neighbor. She had never paid any attention on the respondent and interested only in social media. The learned Counsel has also filed an additional typed set of papers with photographs and



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images extracted from the petitioner's Instagram account and projected that the petitioner is addicted with social media. He further submitted that the respondent's mother is having several age related ailments and his mother has recently underwent a heart surgery in the year 2020. The respondent alone has to take care of his mother. Therefore, the learned Counsel strongly objected for transferring the case.

4. This Court paid its anxious consideration to the rival submissions and also to the materials placed on record.

5. The petition for divorce is pending before the Sub Court, Dharmapuri and it appears that the petitioner has already engaged a Counsel and is defending the application therein. Since the petition is pending before the Sub Court, the petitioner can be represented through a Counsel and her personal appearance before the Court is not required, except while providing evidence, judgment, etc.

6. Considering the submissions made by the learned Counsel on either side, the status of the parties and taking note of the fact that the case is pending before the Sub Court and that the petitioner has already engaged a Counsel to defend her,



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B.PUGALENDHI, J.

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this Court is not inclined to entertain this transfer civil miscellaneous petition. Accordingly, this petition stands dismissed. However, considering the difficulties expressed by both parties, the trial Court shall endeavour to conclude the proceedings as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Index : Yes / No

10.01.2023

Internet : Yes

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To

The Additional Subordinate Judge,
Dharmapuri.

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