



Tr.C.M.P(MD)No.779 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **08.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.779 of 2022
and
C.M.P(MD)No.12522 of 2022

Sahaya Rigi Asha @ Asha

...Petitioner/Respondent

Vs.

Muthu @ Muthuvel

...Respondent/Petitioner

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to withdraw and transfer H.M.O.P.No.29 of 2022 on the file of the Family Court, Cuddalore to the file of the Family Court, Tirunelveli.

For Petitioner : Mr.B.Sathesh Kumar

ORDER

The present transfer civil miscellaneous petition has been filed to transfer H.M.O.P.No.29 of 2022 on the file of the Family Court, Cuddalore to the file of the Family Court, Tirunelveli.



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2. Though the respondent has been served and name being printed in the cause list, there is no appearance either in person or through counsel.

3. A reading of the affidavit filed in support of the petition shows that the petitioner has earlier filed I.D.O.P.No.144 of 2020 before the Family Court, Tirunelveli for restitution of conjugal rights which had ended in a compromise before the Lok Adalat on 15.09.2021. The respondent has thereafter filed H.M.O.P.No.29 of 2022 under the Hindu Marriage Act, 1955. Two proceedings have been initiated under two enactments which is legally impossible to be tried together.

4. Be that as it may, considering the averments of the petition in the affidavit expressing the difficulties and to avoid conflicting orders under two different enactments, I am inclined to allow the present Transfer Civil Miscellaneous Petition. In the result, the present Transfer Civil Miscellaneous Petition stands allowed by transferring H.M.O.P.No. 29 of 2022 on the file of the Family Court, Cuddalore to the file of the Family Court, Tirunelveli.



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5. The Family Court, Thirunelveli shall however examine as to whether the parties are governed by the Hindu Marriage Act, 1955 or by the provisions of the Indian Divorce Act, 1869 before proceeding and allow the parties to make suitable amendments to the pleading. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

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

- 1.The Family Court,
Cuddalore.
- 2.The Family Court,
Tirunelveli
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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