



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.07.2024
PRONOUNCED ON : 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.CMP.Nos.52 & 19 of 2024
and
C.M.P.Nos.1234 & 698 of 2024

S.Mahalakshmi

... Petitioner
in both petitions

Vs.

P.Chandran

... Respondent
in both petitions

Prayer in Tr.CMP.No.52 of 2024: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the case in G.W.O.P.No.180 of 2021 pending on the file of the Principal District Judge at Vellore and transfer the same to the Family Court at Chennai, City Civil Court campus.

Prayer in Tr.CMP.No.52 of 2024: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.69 of 2021 pending on the file of the Subordinate Judge, Gudiyatham, Vellore District and transfer the same to the Family Court at



Tr.CMP.Nos.52 & 19 of 2024

Chennai, City Civil Court campus.

WEB COPY

For Petitioner
in both petitions : Mr.J.Kannan

For Respondent
in both petitions : Mr.K.A.Ravindran

COMMON ORDER

Tr.C.M.P.No.52 of 2024 filed by the wife seeking transfer of G.W.O.P.No.180 of 2021 filed by the husband pending on the file of the Principal District Court, Vellore to the file of the Family Court at Chennai.

2.Tr.C.M.P.No.19 of 2024 filed by the wife seeking transfer of H.M.O.P.No.69 of 2021 filed by the husband pending on the file of the Sub Judge, Gudiyatham to the file of the Family Court at Chennai.

3.The brief facts in H.M.O.P.No.69 of 2021 is that the marriage between the petitioner/wife and the respondent/husband took place on 17.02.2017 at Sivasakthi Aalayam, Vadapalani and the same was registered before SRO, Kodambakkam on 20.02.2017. The marriage between the



petitioner and the respondent is a love marriage which was not initially accepted by the parents of the petitioner and the respondent. Thereafter, both families accepted their love and decided to have marriage. Later it was found that horoscope not matched and hence, the respondent's family not agreed for the marriage. The respondent agreed for the marriage against the objection of his family and later, marriage was held with the concurrence of the family members. Since the petitioner/wife was an unwelcome entry into the family, the respondent's family members were not properly treating her and subjected her to cruelty. The petitioner and the respondent were living in the first floor, the respondent's parents and his brother were living in the ground floor as a separate family. Thereafter, there was demand of dowry, misunderstanding, ill-treatment and later the petitioner was chased out from the matrimonial home. In the meanwhile, the petitioner gave birth to a girl child. After coming out from the matrimonial home, the petitioner was living along with her sister in Chennai. Now the minor girl Vinmini was admitted in Shri B.S.Mootha Girls Senior Secondary School, West Mambalam, Chennai and it is the petitioner/wife who is taking care of her education and all expenses. The petitioner also filed I.A.No.2 of 2022 in H.M.O.P.No.69 of 2021 seeking interim maintenance. The learned



Tr.CMP.Nos.52 & 19 of 2024

Subordinate Judge, Gudiyatham, by order dated 05.04.2023 directed the respondent/husband to pay Rs.5,000/- per month to the petitioner and Rs.3,000/- per month to the minor girl, in total, Rs.8,000/- per month to be paid as maintenance. The petitioner participating in the proceedings before the Sub Court, Gudiyatham with great difficulty and being a single lady, she is travelling from Chennai to Gudiyatham without any support, hence the present petition filed.

4.The brief facts in G.W.O.P.No.180 of 2021 is that the respondent/husband filed this petition before the District Court, Vellore citing the divorce petition in H.M.O.P.No.69 of 2021 pending before the Sub Court, Gudiyatham. The respondent/husband being a guardian to his minor daughter, can be permitted to have visitation right of his daughter either on Saturday or Sunday which is holiday for him. This petition also sought to be transferred on the similar ground by the deserted wife.

4.Be that as it may, this Court earlier passed orders on 15.04.2024, 22.04.2024 and 04.06.2024, which are as follows:

“Order passed on 15.04.2024:



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024

The present transfer civil miscellaneous petition seeks transfer of G.W.O.P.No.180 of 2021 pending on the file of the Principal District Court at Vellore to the file of the Family Court, City Civil Court Campus at Chennai.

2.The petitioner states that she is a resident of Thyagaraya Nagar (T.Nagar), Chennai. Her husband has moved a Guardianship Petition in G.W.O.P.No.180 of 2021 before the Principal District Court, Vellore seeking visitation rights of his six years old girl child.

3.The prayer in G.W.O.P.No.180 of 2021 is not seeking guardianship, but only for grant of visitation rights of the minor girl child viz., “Vinmini” on every Saturday and Sunday.

4.Today i.e., on 15.04.2024, when the transfer civil miscellaneous petition was listed before me, I enquired Mr.J.Kannan and Mr.K.A.Ravindran, learned counsel for the respective parties as regards the issue of the child.

5.Mr.K.A.Ravindran, learned counsel for the respondent would make a request that his client be permitted to take the child from Chennai to Gudiyattam so that she meets her paternal grandparents, who are situated therein.

6.Mr.J.Kannan, learned counsel for the petitioner apprehends that for the past couple of years, as the child has not seen her father, grant of an order as sought for



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024

might not be feasible. As a measure of confidence-building, he pleads that the father may be permitted to see the child at the Child Counselling Centre attached to the Family Court, City Civil Court Campus at Chennai.

7.I am agreeable with a view placed by Mr.J.Kannan. For starters, the petitioner's husband, Mr.P.Chandran, shall be permitted to visit the Child at Child Counselling Centre attached to the Family Court, City Civil Court Campus at Chennai on 20.04.2024 at 10.00 a.m. He will be permitted to take the child for Lunch etc., and drop the child back at the Child Counselling Centre attached to the Family Court, City Civil Court Campus at Chennai by 6.00 p.m.

8.This is a purely temporary arrangement in order to see how the child reacts with her father. The first couple of hours will be spent at the Mediation Centre attached to the Family Court, City Civil Court Campus at Chennai.

9.List the matter along with Tr.C.M.P.No.19 of 2024 under the caption "For Orders" on 22.04.2024.

Order passed on 2.04.2024:

Both counsel agree that, pursuant to the order of this Court dated 15.04.2024, the petitioner, the respondent and the child met at the Child Counselling Centre attached to the Family Court at Chennai on 20.04.2024.

2.Mr.J.Kannan would submit that the meeting was



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024

not very conducive as the child was not willing to see the father. As this is the beginning of alienation of the child from the father, I asked both the counsel to come up with a solution for the same. I do not want the child to suffer from parental alienation syndrome.

3.Both Mr.J.Kannan and Mr.K.A.Ravindran submitted that they are willing to take additional efforts to normalize the relationship between the father and the daughter. Mr.J.Kannan would state that the child will be produced on 26.04.2024 and 03.05.2024 before the Child Counselling Centre at Family Court, Chennai. The time of meeting would be between 04.00pm and 06.00pm. On other Fridays in May 2024, namely 10.05.2024, 17.05.2024, 24.05.2024 and 31.05.2024, the child will be produced at 04.00pm at the Tirumala Tirupati Devasthanam, Venkatnarayana Road , T.Nagar, Chennai – 17 to meet her father. During these meetings, the father will be permitted to take the child and spend quality time with her.

Call this matter on 04.06.2024.

Order passed on 04.06.2024:

In continuation and conjunction to the earlier orders passed by this Court on 15.04.2024 and 22.04.2024, this Court is passing the following orders.



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024

2.Today, the petitioner/wife with her minor daughter Vinmini and the respondent/husband present before this Court in person along with their respective counsel. Both the petitioner and the respondent made complaint and counter complaint against each other, but both of them are sincere and focused on the minor daughter's welfare which is confirmed during interaction. Both agreed to live together for their minor daughter's welfare. The place of stay whether at Chennai, Gudiyatham, Vellore or Bangalore, has to be decided by them.

3.The petitioner's preference is Chennai for the reason that she is pursuing Ph.D., in Vellore Institute of Technology, Chennai and the minor daughter is studying in Shri.B.S.Mootha Girls Senior Secondary School, West Mambalam, Chennai. The respondent's preference is to stay in Vellore for the reason that his father and mother are aged and staying at Gudiyatham and his mother is suffering from paralysis stroke. Further, the respondent's office is at Bangalore and he is permitted to work from home. On occasion, he has to visit Bangalore.

4.Earlier arrangement of meeting between 04.00 p.m and 06.00 p.m., on Fridays from 10.05.2024 to 31.05.2024 will continue until further orders with change of place of meeting. Instead of Tirumala Tirupati Devasthanam, Venkatnarayana Road, T.Nagar, Chennai-17, the meeting



of the child by the respondent/father will now be at Vijaya Forum Mall, 183, Great Southern Trunk Rd, Arcot Road, Vadapalani, Chennai-600026 on all coming Fridays between 04.00 p.m and 06.00 p.m.

5.Today both the learned counsel for the petitioner and the learned counsel for the respondent present and they agreed to refer the matter for mediation. Both of them agreed for Ms.B.S.Ajeetha (Contact No.94440 50215) to be a Mediator.

6.In view of the above, Registry is directed to place this matter before the said mediator and the parties along with their respective counsels to appear before the Mediator to resolve the issue.

7.Post the matter before this Court after receiving the mediation report.”

Thereafter, mediation was conducted by Advocate Ms.B.S.Ajeetha who had given a report that mediation failed.

6.The marriage between the petitioner and the respondent is not in dispute, there was some matrimonial discord, thereafter the petitioner/wife was initially staying in Gudiyatham now she is living with her sister in



Chennai and pursuing her Ph.D in VIT University, Chennai. Her daughter was admitted in Shri B.S.Mootha Girls Senior Secondary School, West Mambalam, Chennai and hence, she has to necessarily stay in Chennai. Forcing her to travel to Gudiyatham from Chennai to attend the hearing in H.M.O.P.No.69 of 2021 pending before the Sub Court, Gudiyatham and to attend the hearing in G.W.O.P.No.180 of 2021 pending before the District Court, Vellore would cause great harassment and suffering to the petitioner. Further, the petitioner would be forced to skip her assignments in Ph.D and also she has to leave her daughter to be taken care either by her sister or brother who are in Chennai which would deprive the daughter of her proper care and affection. Though it may be for a short period, deprivation is always a deprivation.

7.The respondent is also not seriously objecting for transfer of both the cases to Chennai and his only request is that he is still ready to take back his wife and daughter but his job requirement and family situation is that he cannot leave his aged parents unattended who are staying in Gudiyatham and who needs both physical and medical support from the respondent. The respondent was open to have a nucleus family to be set up at Vellore but the



petitioner has got her own apprehension and objection for the same. In such circumstances, the respondent prayed that he may given the visitation rights of his daughter and he is ready to visit his daughter as per the ealire arrangement.

8.Accordingly, the respondent can visit his daughter at Vijaya Forum Mall, Vadapalani, Chennai on 2nd and 4th Saturdays between 5.00 p.m. and 8.00 p.m. which will be convenient for both the petitioner and the respondent. The petitioner or her family members can be present at a distance. Vijaya Forum Mall has been suggested since it is covered by CCTV cameras. The respondent can take his daughter inside the Mall to the play area and other areas even for shopping and to Food Court which is well covered by CCTV cameras, thereby facilitating the father and the child to get along and both can build up emotional bonding which during the course of time would iron out the difference between the petitioner and the respondent. In view of the same, this Court withdraws both H.M.O.P.No.69 of 2021 from the file of the Sub Court, Gudiyatham and G.W.O.P.No.180 of 2021 from the file of the Principal District Court, Vellore and transfer both the cases to the file of Principal Family Court, Chennai, which either itself



Tr.CMP.Nos.52 & 19 of 2024

or make over to any of the Additional Family Courts in Chennai and both the cases to be tried together to avoid complexity and also conflicting decisions.

9. Accordingly, the Transfer Civil Miscellaneous Petitions stand allowed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

16.07.2024

cse

To

1. The Sub Judge,
Gudiyatham.
2. The Principal District Judge,
Vellore.
3. The Family Court,
Chennai.



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024



WEB COPY



Tr.CMP.Nos.52 & 19 of 2024

M.NIRMAL KUMAR, J.

cse

Pre-delivery order made in

Tr.CMP.Nos.52 & 19 of 2024

16.07.2024