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Tr.C.M.P.No.150 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30..08.2024

Coram

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Transfer Civil Miscellaneous Petition No.150 of 2024

and

C.M.P.N.3047 of 2024

M.Venkatesan

..... Petitioner

-Versus-

R.Vanishree @ Malavika

..... Respondent

Petition filed under Section 24 of the Code of Civil Procedure,1908,,
praying to withdraw the case in H.M.O.P.No.97 of 2022 pending on the file of
the Principal Subordinate Judge, Tindivanam, and transfer the same to the file
of the Family Court, Chennai.

For Petitioner : Mr.J.Jayan

For Respondent : Mr.G.Pandian

ORDER

This Transfer Civil Miscellaneous Petition seeking to withdraw the case
in H.M.O.P.No.97 of 2022 pending on the file of the Principal Subordinate
Judge, Tindivanam, and transfer the same to the file of the Family Court,
Chennai.



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2. The petitioner married the respondent on 21.06.2021. They set up their matrimonial home at Tindivanam. The wife became pregnant and unfortunately, it resulted in a miscarriage. Due to disputes and differences, the wife has initiated a proceeding for divorce in H.M.O.P.No.97 of 2022 on the file of the Principal Subordinate Judge at Tindivanam. The husband pleads that he is unable to travel for three hours and distance of 129 Kms from Chennai to Tindivanam, for attending the hearing. Hence, the transfer petition.

3. Notice was ordered in this application on 20.02.2024 and Mr.G.Pandian appears for the respondent/wife.

4. Mr.K.Jayan would submit that the wife is working in a private firm in Chennai, and therefore, transferring the original petition in H.M.O.P.No.97 of 2022 from the file of the Principal Subordinate Judge at Tindivanam would be conducive.

5. Per contra, Mr.G.Pandian would submit that on account of employment of the respondent/wife, if she were called upon to appear before the Family Court for every hearing, there is a distinct possibility that she might lose her employment.

6. Heard both sides.

7. I have gone through the records.



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8. The case is not pending before the Family Court for the petitioner/husband to appear before the court for every hearing. The case is pending before the Principal Subordinate Court and therefore, the petitioner/husband can always engage a counsel to defend himself in the divorce proceedings. Therefore, the reason of travel from Chennai to Tindivanam, is the one invented for the purpose of this case.

9. Taking into consideration the over all circumstances of the case, I am not inclined to transfer the original petition in H.M.O.P.No.97 of 2022 by the fact that case is pending before the Principal Subordinate Court at Tindivanam, both the parties can be effectively represented by a counsel and they need to appear only at the time of evidence. Hence, the transfer petition is dismissed. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

1.The Principal Subordinate Judge, Tindivanam, Villupuram District.



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V.LAKSHMINARAYANAN.J.,

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