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Tr.C.M.P. No.161 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2024

Coram

THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P. No.161 of 2024 &
C.M.P.No.3173 of 2024

G.Chitra

... Petitioner

-Versus-

D.Ajay

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure, to withdraw the case in H.M.O.P.No.561 of 2023 on the file of the Subordinate Court, Alandur, and transfer the same to the file of the Principal Subordinate Court, Kumbakonam, Thanjavur District and try along with H.M.O.P.No.340 of 2023.

For the Petitioner : Mr.D.Gubendra Gunabalan

For the Respondent : Ms.S.Anuradha Balaji

ORDER

The petitioner is the wife. The respondent is the husband. Their marriage was solemnised on 03.02.2021 at Kumbakonam. The husband has employed at Bangalore. The parties have approached the Sub Court in Kumbakonam as well



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as the Sub Court, Alandur. The wife has also initiated proceedings under the Domestic Violence Act before the Judicial Magistrate Court – I at Kumbakonam. The husband has presented H.M.O.P.No.561 of 2023 seeking for divorce. The wife also initiated H.M.O.P.No.340 of 2023 seeking for restitution of conjugal rights. She pleads that the distance from Kumbakonam to Chennai is around 320 kms and she is facing physical inability to undertake this travel. Hence, this transfer petition.

2. Notice was ordered in the transfer petition on 21.02.2024 and Ms.S.Anuradha Balaji, appears for the respondent.

3. Ms.Anuradha Balaji, would state that the husband will compensate the wife if she were to travel from Kumbakonam to Chennai and she would state that the husband is also willing to pay for the boarding charges of the wife at Chennai.

4. The fact that the husband is appearing before the Courts in Kumbakonam in D.V.C.No.20 of 2023 as well as in H.M.O.P.No.340 of 2023 is not in dispute. It is also cannot be disputed that the distance between



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Kumbakonam and Chennai is considerable. The wife, as seen from the affidavit, does not have any support other than her aged father. The fact that the husband is willing to pay travel expenses does not mean that the physical inability vanishes. There is no doubt that to a certain extent it will reduce the financial burden to the wife. Even if she receive the money from the husband, she would still have to endure travelling from Kumbakonam to Chennai. The husband is already appearing albeit through a counsel at Kumbakonam. Furthermore, there must be no conflict of Judgments between the Courts at Kumbakonam and the Courts in Chennai, in the proceedings initiated for restitution of conjugal rights and divorce respectively.

5. Taking into overall consideration of the aspects, I am inclined to withdraw H.M.O.P.No.561 of 2023 pending on the file of the Sub Court, Alandur and transfer the same to the file of the Principal Subordinate Court, Kumbakonam.

6. On re-numbering of H.M.O.P.No.561 of 2023, the learned Principal Subordinate Judge, Kumbakonam, shall club the case along with H.M.O.P.No.340 of 2023 and dispose of the same by recording the evidence in



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common and also render a Judgment in common.

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7. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

06.09.2024

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Index : yes / no

Internet : yes / no

Neutral Citation: yes / no

Speaking / Non Speaking Order

To

1.The Subordinate Judge, Alandur.

2.The Principal Subordinate Judge
Kumbakonam, Thanjavur District.



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V.LAKSHMINARAYANAN, J.,

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