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Tr. C.M.P.Nos.313 and 314 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

TR. C.M.P. Nos.313 and 314 of 2024
and
C.M.P. Nos.6398 and 6419 of 2024

Akila Victor W/o. M. Leo Franklin ... Petitioner common in both Tr.C.M.Ps.

vs.

M. Leo Franklin

S/o. Late Muthiah @ John Muthu ... Respondent common in both Tr.C.M.Ps.

Prayer in Tr. C.M.P. No.313 of 2024: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw and transfer the case in I.D.O.P. No.2558 of 2023 on the file of learned VII Additional Judge, VII Additional Family Court, Chennai and to try along with case in I.D.O.P. No.366 of 2023 at Family Court, Kanniyakumari at Nagercoil.

Prayer in Tr. C.M.P. No.314 of 2024: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, praying to withdraw and transfer the case in G.W.O.P. No.317 of 2023 on the file of learned Judge,



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Family Court, Vellore and to try along with case in I.D.O.P. No.366 of 2023 at

Family Court, Kanniyakumari at Nagercoil.

For Petitioner : Mr. S. Kingston Jerold [both cases]

For Respondent : Mr. Krishnaraj [both cases]

COMMON ORDER

The transfer Civil Miscellaneous petition in Tr. C.M.P. No.313 of 2024 is filed by the petitioner wife seeking transfer of I.D.O.P. No.2538 of 2023 pending on the file of VII Additional Family Court, Chennai to Family Court, Kanniyakumari for joint trial together with the petition for divorce filed by the petitioner in I.D. O.P. No.366 of 2023 pending on the file of Family Court, Kanniyakumari.

2. The transfer Civil Miscellaneous Petition in Tr. C.M.P. No.314 of 2024 is filed by the wife seeking transfer of G.W.O.P. No.317 of 2023 pending on the file Family Court, Vellore filed by the respondent husband seeking custody of child along with divorce petition filed by her in I.D.O.P. No.366 of 2023 pending on the file of Family Court, Kanniyakumari.



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3. In the affidavit filed in support of the transfer applications, the petitioner wife has stated that she is working as Professor in VIT, Vellore and she is facing Court proceedings in different districts and hence the proceedings pending before the Vellore Court and Chennai Court shall be transferred to her native place in Kanniyakumari. It is also stated by her that she filed a petition for divorce and for custody of minor child before the Family Court, Kanniyakumar @ Nagercoil in I.D.O.P. No.366 of 2023. Therefore the petition for divorce filed by the husband pending on the file of Family Court, Chennai and the petition for custody of child pending on the file of Family Court, Vellore shall be transferred to Family Court, Kanniyakumari @ Nagercoil for joint trial along with divorce application filed by her. It is further stated that the petitioner's parents are living at Nagercoil and she has been visiting her parents every week at Nagercoil.

4. From the affidavit filed by the petitioner, it is clear that she is working as Professor in VIT, Vellore and it is also stated by her that she has been visiting her parents every week, who are residing at Nagercoil. When the petitioner is working at Vellore, it will not be difficult for her to attend



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Family Court, Vellore to conduct the case pending before the said Court.

Therefore, this Court is inclined to transfer the divorce petition filed by the respondent husband pending on the file of Family Court, Chennai and the divorce petition filed by the petitioner wife pending on the file of Family Court, Kanniyakumari @ Nagercoil to Family Court, Vellore for simultaneous enquiry along with the petition for custody of child filed by the respondent pending on the file of Family Court, Vellore.

5. Therefore, the following order is passed:-

(i) IDOP No.366 of 2023 pending on the file of Family Court, Kanniyakumari @ Nagercoil is withdrawn and transferred to Family Court, Vellore for simultaneous enquiry along with GWOP No.317 of 2023.

(ii) The petition filed by the respondent husband pending on the file of VII Additional Family Court, Chennai in I.D.O.P. No.2558 of 2023 seeking restitution of conjugal rights, is withdrawn and transferred to the Family Court, Vellore for simultaneous enquiry along with GWOP No.317 of 2023.



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6. With these directions, both the transfer Civil Miscellaneous Petitions are disposed of. The connected miscellaneous petitions are closed.

21.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

1. The VII Additional Judge, VII Additional Family Court, Chennai.
2. The Family Court, Kanniyakumari at Nagercoil.
3. The Family Court, Vellore District.



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S.SOUNTHAR, J.

mjs

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