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Tr.C.M.P.No.466 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P.No.466 of 2022

Saranya

...Petitioner

Vs

S.Vinothkumar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.17/2022 pending on the file of the Principal Sub Court, Thittakudi to be transferred the same to the Family Court, Ariyalur.

For Petitioner : Mr.R.Gokulakrishnan

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.17 of 2022 from the file of the Principal Subordinate Court, Thitakudi and transfer the same to the file of the Family Court, Ariyalur.

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2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 11.11.2016 as per Hindu rites and customs at Rathina Mahal, South Rathaveethi, Pennadam. In the wed lock, one female child viz., Janani was born and she was aged about 4 years. The respondent has started demanding huge dowry by ill-treating the petitioner and was not taking care of her. Due to difference of opinion between them, the respondent left the company of the petitioner and residing with his parents. The respondent filed H.M.O.P.No.17 of 2022 on the file of the Principal Subordinate Court, Thitakudi, to declare the marriage as null and void .

3.According to the petitioner, the distance between Ariyalur and Thitakudi is more than 90 kilometers and hence, it is very difficult for her to go to Thitakudi to attend the proceedings in H.M.O.P.No.17 of 2022 along with her minor daughter who is aged about 4 years. In the H.M.O.P pending before the Principal Subordinate Court, Thitakudi, the presence of spouse is mandatory for each and every hearing. In the said circumstances, the

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petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.17 of 2022 from the file of the Principal Subordinate Court, Thitakudi, to the file of the Family Court, Ariyalur.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name was printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

5.The contention of the learned counsel for the petitioner that the petitioner finds it difficult to travel nearly 90 kilometers from Thitakudi to Ariyalur to attend the case in H.M.O.P.No.17 of 2022, which will affect the health of her minor daughter, has considerable force.

6. Taking into consideration that convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta]** and **AIR 2002 SC 396 [Sumita Singh Vs.**



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Kumar Sanjay and another] and H.M.O.P.No.17 of 2022 is ordered to be

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J.NISHA BANU,J.

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withdrawn from the file of the Principal Subordinate Court, Thitakudi and transferred to the file of the Family Court, Ariyalur. The learned Judge, Principal Subordinate Court, Thitakudi, is directed to transmit all the records pertaining to H.M.O.P.No.17 of 2022 to the file of the Family Court, Ariyalur, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered.

No costs.

20.02.2024

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To

- 1.Principal Sub Court, Thittakudi.
- 2.The Family Court, Ariyalur.

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