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Tr.CMP.469/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**Tr.CMP.No.469 of 2024 &
CMP.No.9455 of 2024**

Augustia ... Petitioner

Vs.

Balaji ... Respondent

Civil Revision Petition filed under Section 24 of CPC praying to withdraw the HMOP.No.4289 of 2023 on the file of the Principal Judge, Family Court, Chennai and transfer the same to the Family Court, Puducherry.

For petitioner : Mr.R.Thiagarajan

For Respondent : Dr.R.Sampath Kumar

ORDER

This Transfer Civil Miscellaneous Petition has been initiated by the



Tr.CMP.469/2024

wife. She married the respondent on 01.11.2018. There are no children from the wedlock.

2. The husband has initiated HMOP.No.4289 of 2023 for divorce before the Principal Judge, Family Court, Chennai, invoking section 13(1)(1-a) of the Hindu Marriage Act.

3. The wife pleads that the distance between Pondicherry and Chennai is about 160 kilometres and takes her several hours of travel. Therefore, she has pleaded that she does not have financial capacity to contest the litigation in Chennai. Hence, she has moved the Tr.C.M.P., on the ground of financial as well as physical disabilities.

4. Notice was ordered in this Tr.C.M.P on 26.04.2024. The respondent has been served and he has entered appearance through Dr.Sampath Kumar, learned counsel.



Tr.CMP.469/2024

WEB COPY

5. Dr.Sampath Kumar would submit that the respondent/husband suffers from hypertension and has undergone kidney transplantation not once, but twice. He would state that he is not in the physical and medical condition to undertake travel from Chennai to Pondicherry. In order to substantiate his illness, he has produced the discharge summary from Medway Hospitals at Chennai.

6. A Perusal of the report shows that kidney transplantation was done in Chennai in 2017 and yet another operation was done on 08.09.2022. The remaining records show that he is still under treatment and needs follow up visits at the hospital.

7. Mr.R.Thiagarajan, learned counsel would submit that the wife has initiated two further proceedings in M.C.No.59 of 2024 for maintenance and HMOP.No.603 of 2024 for Restitution of Conjugal Rights. He would state that the wife is in acute financial distress and cannot undertake the travel at all.



Tr.CMP.469/2024

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8. Taking the overall circumstances into consideration, especially, the health of the husband, I am of the view that instead of directing the parties either to appear in Pondicherry or in Chennai, a mid point namely Court in Madhuranthagam can be chosen. As pointed out by Dr.R.Sampath Kumar, the distance between Madhuranthagam and Chennai is equidistant between Pondicherry and Chennai. Further, in order to ensure that the wife is not seriously affected, on account of financial inability, the husband shall bear the cost of her travel which I assume would amount to Rs.5000/- for every hearing.

9. Accordingly M.C.No.53 of 2024 and HMOP.No.603 of 2024 , both pending on the file of the Family Court, Pondicherry and HMOP.No.4289 of 2023 pending on the file of Principal Judge, Family Court, Chennai are withdrawn and transferred to the file of Subordinate

Court at Madhuranthagam for joint trial and disposal taking into



Tr.CMP.469/2024

consideration the health of the husband.

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10. The Subordinate Court, Madhuranthagam need not insist on his appearance for every hearing. However, for every hearing, the wife appears before the court and the court shall ensure that she is paid a sum of Rs.5000/- for every hearing . This is, without prejudice to her right of claim of maintenance, in any of the aforesaid proceedings.

11. This Transfer Civil Miscellaneous Petition is disposed of with the above direction. No costs. Consequently, the connected CMP is closed.

09.09.2024

Index: yes/no
Internet:yes/no
msr

To

1. The Subordinate Court, Madhuranthagam
2. The Principal Judge, Family Court, Chennai
3. The Family Court, Puducherry



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Tr.CMP.469/2024

V. LAKSHMINARAYANAN, J.

msr

**Tr.CMP.No.469 of 2024 &
CMP.No.9455 of 2024**



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Tr.CMP.469/2024

09.09.2024