



Tr.C.M.P.Nos.428 and 429 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.Nos.428 and 429 of 2024

A.Nishanth Kumar

... Petitioner in
both the Tr.C.M.P's.

Versus

1.Shanmugalatha
2.Swetha

.. Respondents in
both the Tr.C.M.P's.

Prayer in Tr.C.M.P.No.428 of 2024 : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code to withdraw G.O.P.No.5 of 2023 pending on the file of the Principal District Court, Krishnagiri and to transfer the same to the Principal Family Court, Chennai.

Prayer in Tr.C.M.P.No.429 of 2024 : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code to withdraw G.O.P.No.9 of 2023 pending on the file of the Principal District Court, Krishnagiri and to transfer the same to the Principal Family Court, Chennai.

In both the Tr.C.M.P's.:

For the Petitioner : Mr.S.Mohan

For the Respondents : Mr.V.Saravanan



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COMMON ORDER

This Transfer Civil Miscellaneous Petition seeks for withdrawal of G.O.P.No.5 of 2023 on the file of the Principal District Court, Krishnagiri and to transfer the same to the file of the Principal Family Court, Chennai.

Similarly, other Transfer Civil Miscellaneous Petition seeks for withdrawal of G.O.P.No.9 of 2023, which is also pending on the file of the Principal District Court, Krishnagiri to the file of the Principal Family Court, Chennai.

2. There is no dispute in the relationship between the parties. The Transfer Petitioner is the son-in-law of the 1st respondent. He married one Sushma, the 2nd daughter of the 1st respondent on 21.03.2022. Soon after the marriage, she became pregnant and delivered a male child on 14.12.2022. Unfortunately, she was suffering from Dengue, at the time of her pregnancy. She succumbed to the said virus on 15.12.2022. As the child was newly born,



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hardly a couple of days old, the 1st respondent took custody of the child and went to Krishnagiri.

3. The father pleads that he took several steps to see the child, including lodging of a complaint with the All Women Police Station, Hosur, but was not successful. Hence, he filed H.C.P.No.1388 of 2023. The parties were directed to work out their rights in G.O.P.No.5 of 2023 filed by the 1st respondent and G.O.P.No.9 of 2023 was filed by the Transfer Petitioner.

4. These Transfer Petitions were filed on the ground that the 1st respondent has shifted her residence from Hosur to Chennai. The petitioner pleads he has also shifted to Chennai. On this ground, he would plead that it is convenient, if both the guardian petitions initiated by the petitioner as well as by his mother in law were transferred to a Court in Chennai.

5. Notice was ordered in both these applications by this Court on 17.04.2024. Notice was served and Mr.Saravanan appears for the respondents.



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6. Mr.S.Mohan, who appears for the Transfer Petitioner would plead that both the parties are being the residents of Chennai, it is better the proceedings are conducted at Chennai itself.

7. Mr.Saravanan would plead that the witnesses to the case are in Hosur and therefore, in the interest of justice, the proceedings be continued in Hosur.

8. I have carefully gone through the records and considered the arguments on either side.

9. The proceedings that has been initiated by the 1st respondent and the Transfer Petitioner are not matrimonial proceeding requiring production of witnesses and documents. This is a simple case of guardianship of a child, aged about 20 months old. The paternity is not in issue neither the relationship between the parties. In matters such of these, the Court only considers the best interest of the child. The child is, admittedly staying at Adambakkam, under the custody of the 1st respondent.



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10. Taking into consideration the best interest of the child and also the fact the both the petitioner and the 1st respondent are residing at Chennai and the 2nd respondent alleged to be residing at Dubai, I feel, if the proceedings are withdrawn from the Court of Krishnagiri and transferred to the Court at Chennai, which would serve the interest of justice.

11. Before I bring down the curtains of this litigation, I have to take into consideration the plea that was made by Mr.Mohan that the petitioner has not seen the child after its birth on 14.12.2022. A father is certainly entitled to the company of his child. Therefore, I requested Mr.Saravanan to get instructions from his client in this regard. Mr.Saravanan would state that while the 1st respondent does not want to keep the child away from the petitioner, he would point that it is the 1st respondent, who is taking care of all the expenses for the child. Though the petitioner is the father, he has not spent a single paisa towards the child's upbringing. Therefore, he produced a calculation yesterday, which was not agreeable to me, as I found it highly inflated. Therefore, I asked him to come with the correct calculation so as to give a direction to the petitioner- husband to pay the amount.



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12. Today, he would state that the mother-in-law is spending a sum of Rs.20,000/- per month to the child. Mr.Mohan would state that the petitioner is ready to pay the said amount, month on month in order to maintain his son. In the light of the above, the following directions are passed:-

(i) The proceedings in G.O.P.No.5 of 2023 and G.O.P.No.9 of 2023 now pending on the file of the Principal District Court, Krishnagiri are withdrawn and transferred to the file of the Principal Family Court, Chennai. The Principal District Judge, Chennai is requested to nominate a Court, where the burden of litigation is not so heavy, to take up the above stated guardian petitions for disposal expeditiously.

(ii)The petitioner-father shall pay a sum of Rs.20,000/- per month to the Account Number of the 1st respondent, which Mr.Saravanan assures that it will be provided to Mr.S.Mohan today, by way of a memo/e-mail.

(iii)The petitioner-father will be entitled to visit and spend time with the child at F2, First Floor, VCK Royal Gardens, 1st Cross Street, Surendra Nagar, 6th Cross, Adambakkam, Chennai – 600 088, on all Sundays between 10 am to



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1 pm. He also entitled to take such close relatives, whose presence would not bring an un-conducive atmosphere in the residence of the 1st respondent;

(iv) This arrangement is only a temporary. I am passing this order with consent of the parties as I do not want the child to look at his father as if he is a stranger, if he meets him in Court.

(v) It is always open to the parties to approach the learned Trial Judge to modify the right of visitation granted through this order.

13. With the above directions, this Transfer Civil Miscellaneous Petition stands disposed of.

28.08.2024

Index : Yes / No

Internet: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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To

1.The Principal District Judge
Chennai.

2.The Judge
Family Court, Chennai.

3.The Principal District Judge
Krishnagiri.



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V.LAKSHMINARAYANAN, J.,

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