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TR.C.M.P.No.471 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

CORAM:

THE HONOURBLE MR. JUSTICE M. NIRMAL KUMAR

TR.C.M.P.No.471 of 2024
and C.M.P.No.9480 of 2024

A.Abirami

... Petitioner

Vs.

K.Jagankumar

... Respondent

PRAYER: The Transfer Civil Miscellaneous Petition has been filed under Section 24 read with Section 151 of Civil Procedure Code to withdraw and transfer the case in H.M.O.P.No.44 of 2023 on the file of the Sub Court, Gingee to be tried along with O.P.No.568 of 2024 which is already pending on the file of the I Additional Family Court, Chennai.

For Petitioner : Ms.T.Vijayalakshmi

For Respondent : No appearance

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ORDER

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The petitioner/estranged wife of the respondent has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.44 of 2023 pending on the file of the Sub Court, Gingee, to be tried along with O.P.No.568 of 2024 which is already pending on the file of the I Additional Family Court, Chennai.

2. The contention of the petitioner is that the marriage between the petitioner and the respondent was solemnised on 15.11.2021 at Gingee, Viluppuram. From the wedlock, they are having a female child namely, Bhavyasree, born on 30.12.2022 and the petitioner is only taking care of the child. Though the respondent completed 12th standard, he is working as Mason and is earning daily wage of Rs.800/-. But, the respondent did not spend single rupee to the petitioner as well as the child. One of the sisters of the respondent though got married and settled in Chennai, is staying with her children at the respondent's home at Gingee and she along with another sister,



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who is residing at Gingee also having the habit of gossiping against the petitioner and the respondent, being a beloved brother, taking the sisters' words to be true, started to abuse the petitioner and assaulted her. Further, the petitioner was treated as house-maid to do all the works and also the sisters' needs. Both sisters of the respondent are giving torture physically/mentally and abused the petitioner using filthy language. On the day of seemandham that is during December 2022, the petitioner was driven out from the matrimonial home and is staying at her parental house situated at Chennai. Thereafter, the respondent filed the divorce petition in H.M.O.P.No.44 of 2023 on the ground of cruelty before the Sub Court at Gingee and the petitioner filed H.M.O.P.No.568 of 2024 for restitution of conjugal rights under Section 9 of Hindu Marriage Act, which is pending before the I Additional Family Court, Chennai. The petitioner has also filed an application in I.A.No.22 of 2024 before the Sub Court at Gingee seeking interim maintenance.



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3. The learned counsel for the petitioner submits that it is very difficult for the petitioner to appear before the Sub Court at Gingee for every hearing along with 1 year and 4 months baby by travelling 155 km without any financial assistance and the parents of the petitioner are very aged and hence, she is struggling for daily expenses. Therefore, the petitioner is seeking transfer of H.M.O.P.No.44 of 2023 from Sub Court, Gingee, to the I Additional Family Court, Chennai.

4. Notice has been served on the respondent and name is also printed in the cause list, but, none appeared on behalf of the respondent.

5. Considering the facts and circumstances of the petitioner that she is residing at her parental home at Chennai along with 1 year and 4 months baby and also she is not having any job, it is necessary to transfer H.M.O.P.No.44 of 2023 from Sub Court, Gingee, to the I Additional Family Court, Chennai. Hence, H.M.O.P.No.44 of 2023 shall stand withdrawn from



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the file of the Sub Court, Gingee and transferred to the I Additional Family Court, Chennai. The I Additional Family Court, Chennai, is directed to try H.M.O.P.No.44 of 2023 along with H.M.O.P.No.568 of 2024 and dispose of the same within a period of six (6) months from the date of receipt of records from the Sub Court, Gingee.

6. This Transfer Civil Miscellaneous Petition is allowed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

09.07.2024

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To

- 1.The Sub Court, Gingee.
2. The I Additional Family Court, Chennai.



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M. NIRMAL KUMAR, J.

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