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TR.C.M.P.No.539 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

TR.C.M.P.No.539 of 2024

and

C.M.P.No.11988 of 2024

Gracy Priya

... Petitioner

Vs.

Prabhu

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure, praying to withdraw the case in I.D.O.P.No.33 of 2021 on the file of Principal District Court, Coimbatore and transfer the same to the file of Family Court, Erode, to be tried along with I.D.O.P.No.269 of 2022.

For Petitioner : Ms.S.Rithika

For Respondent : Mr.Prakash Adiadam

ORDER

The petitioner/estranged wife of the respondent has filed this transfer civil miscellaneous petition seeking to withdraw I.D.O.P.No.33 of



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2021 pending on the file of Principal District Court, Coimbatore and transfer the same to the file of Family Court, Erode, to be tried along with I.D.O.P.No.269 of 2022.

2.The learned counsel for respondent submitted that the petitioner suppressed the fact that the petitioner was set ex-parte by order dated 21.03.2024. He further submitted that the respondent has been participating in the trial and filed his counter and the petitioner examined herself and marked documents. Thereafter, she failed to appear before the trial Court and proceed with the proceedings. The respondent was ready for cross examination. Finding that the petitioner deliberately absented herself, she was set ex-parte by the trial Court.

3.The learned counsel for petitioner vehemently opposed the same stating that the petitioner placed the adjudication particulars including the adjudication dated 21.03.2024, hence, there is no suppression of facts. She



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further submitted that the petitioner now filed a petition to set aside the ex-parte order dated 21.03.2024 passed in I.D.O.P.No.33 of 2021 and the case is posted on 27.06.2024. She further submitted that in all fairness the set aside petition would be ordered and thereafter, she would make her submission in I.D.O.P.No.33 of 2021.

4.The learned counsel for respondent, on instructions, submitted that he does not want to stand on the technicalities and he will give no objection for the set aside petition, if any, filed by the petitioner before the Lower Court. His only grievance is that both I.D.O.P.No.33 of 2021 and I.D.O.P.No.269 of 2022 to be taken up and disposed of without much delay.

5.The learned counsel for petitioner submitted that the petitioner is also interested in completing the proceedings in I.D.O.P.No.269 of 2022 filed by her without delay.



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6.Considering the submissions made and on perusal of the materials, it is seen that both the petitioner and the respondent are willing for transfer and speedy disposal of I.D.O.P.No.33 of 2021 and I.D.O.P.No.269 of 2022. In view of the same, this Court is inclined to withdraw and transfer the case in I.D.O.P.No.33 of 2021 to the Family Court, Erode.

7.Accordingly, this Transfer Civil Miscellaneous Petition is allowed and I.D.O.P.No.33 of 2021, pending on the file of Principal District Court, Coimbatore shall stand withdrawn and transferred to the file of Family Court, Erode to be tried along with I.D.O.P.No.269 of 2022. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

rsi/cse



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To

1.The Principal District Judge,
Coimbatore.

2.The Family Judge,
Erode



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M.NIRMAL KUMAR, J.

rsi/cse

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