



Tr.CMP.No.553 of 2024

IN THE HIGH COURT OF JUDICATURE AT
MADRAS

DATED : 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.CMP.No.553 of 2024
and C.M.P.No.12150 of 2024

Minor Ikshan Rahul
Representing as next friend
S.Vadivelu
S/o.Sundaram
(Grand Father of Minor.Ikshan Rahul)
No.13/551, Nethaji Nagar
Palani Gounden Pudur
Kavundampalayam
Vadamadurai
Coimbatore-641 017

... Petitioner

Vs.

1.Rahul Nath

2.The Branch Manager

Indian Bank
Puliyakulam
MHS School Garmel Garden Basket Ball Court
Main Road, Puliyakulam
Coimbatore-641 045

... Respondents

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of
Civil Procedure Code, to withdraw the O.S.No.300 of 2023 pending on the



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file of the V Additional District Munsif Court at Coimbatore to be transferred to heard and tried along with G.W.O.P.No.1219 of 2021 pending on the file of the Family Court at Coimbatore.

For Petitioner : Mr.M.Jaikumar

For R1 : Mr.Manoj Sreevalsan

ORDER

The petitioner/plaintiff in O.S.No.300 of 2023 has filed this transfer petition seeking transfer of suit, which is pending before the V Additional District Munsif Court, Coimbatore and to be heard and tried along with G.W.O.P.No.1219 of 2021 pending on the file of the Family Court at Coimbatore, filed by the 1st respondent herein.

2. The contention of the petitioner is that the petitioner is the grandfather of minor Ikshan Rahul. The 1st defendant in the suit is the father of minor Ikshan Rahul. The suit filed seeking the 1st defendant not to disturb the Bank Account of the Minor Ikshan Rahul till he attains majority. The marriage between the petitioner's daughter-Vidya was solemnized on 19.10.2014 with the 1st respondent. Out of the marriage, they had a son



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namely Ikshan Rahul born to them on 15.02.2016. The petitioner's daughter died on 08.09.2017 at Military Hospital, Ambala due to cardiac failure.

After the death of the petitioner's daughter, Vidya their Grand son continued to reside with his grand parents namely the petitioner and his wife. The 1st defendant was leading a life of his own not taking care of the minor son. Hence, filing of the suit was necessary. Further, the 1st respondent is an Navy Personnel and he has posted in various remote places mostly in high seas. That is the reason the minor son living with the grand parents. In the meanwhile, the 1st espondent had filed G.W.O.P.No.1219 of 2021, which is pending before the Family Court at Coimbatore. In view of the same, it would be appropriate that both cases tried together for better adjudication and have a comprehensive view. For that reason, the transfer petition filed.

3. The learned counsel appearing for the 1st respondent strongly opposed the same stating that the 1st respondent is a Captain in Indian Navy, taking advantage of the respondent posting and unexpected death of his wife due to cardiac arrest, who was also serving in Army, the petitioner herein took custody of the minor son and now not permitting the respondent to visit



his son, take care of him and they are denying bondage of love and relationship between the respondent and his son. Earlier, the petitioner and his wife V.Logambal, who are the respondents in G.W.O.P.No.1219 of 2021 were dragging the proceedings, delaying the progress of G.W.O.P.No.1219 of 2021 by filing one petition or other and also making false allegations against the respondent. For that reason, he filed C.R.P.No.3440 of 2023 before this Court seeking for speedy disposal of G.W.O.P.No.1219 of 2021. This Court by order dated 20.09.2023 directed the Family Court, Coimbatore to dispose of the case expeditiously within a period of six months.

4. Though six months have passed, the petitioner had ensured the progress of the case is stalled. In GWOP, petitioner filed I.A.No.5 of 2024 to examine a Commandant Officer of the Indian Navyship, without giving any details. For what reason he has to be examined, keeping I.A.No.5 of 2024 pending. The main case could not be progressed. The said I.A.No.5 of 2024 was dismissed by the Principal Family Court, Coimbatore, against which, they had filed C.R.P.No.1699 of 2024 and this Court by order dated



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18.04.2024 dismissed the civil revision petition, confirming the order of Family Court. Now, the case is at the stage of argument, the present transfer petition is filed to further protract the proceedings in G.W.O.P.No.1219 of 2021. He further submitted that the relief sought for in G.W.O.P.No.1219 of 2021 and O.S.No.300 of 2023 are no way similar and the facts are different and there is no requirement or necessity to hear both the cases together. Further GWOP case is at the advanced stage whereas O.S.No.300 of 2023 issues is yet to be framed. It is only for the purpose of dragging the proceedings, transfer petition has been filed, to defeat the orders of this Court in C.R.P.No.3440 of 2023 to complete the trial as expeditiously as possible.

5. Considering the submissions, it is seen G.W.O.P.No.1219 of 2019 filed seeking custody of minor son by the 1st respondent and O.S.No.300 of 2023 filed not to disturb the bank account of the minor Ikshan Rahul, the relief sought for in both the petitions are not identical and facts are in variance. There is nothing in common except for the parties. There is no necessary and requirement to transfer O.S.No.300 of 2023 to be heard and



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WEB CO tried along with G.W.O.P.No.1219 of 2019. Hence the petitioner hereby dismissed, consequently connected Miscellaneous petitions are closed.

6. In view of the above, this Court is not inclined to entertain the above petition. Hence, the Transfer Petition is dismissed. The Trial Court is reminded that this Court in C.R.P.No.3440 of 2023 by order dated 20.09.2023 directed the Trial Court to dispose of the case as expeditiously as possible within a period of 6 months. This six month time is already over, keeping that in mind, the Trial Court to complete the proceedings in G.W.O.P.No.1219 of 2021 without further delay. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

WEB COPY

- 1.The V Additional District Munsif Court,
Coimbatore.
- 2.The Family Court,
Coimbatore.



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M.NIRMAL KUMAR, J.

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