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Tr.C.M.P. No.552 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P. No.552 of 2024

Dr.S.Pragatheeswaran

... Petitioner

Vs.

Rasuvanthi

... Respondent

PRAYER: Transfer Petition filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.5299 of 2023 on the file of the Hon'ble 1st Addl. Family Court, Chennai and transfer the same to the file of the Hon'ble Sub Court, Uthamapalayam.

For the Petitioner	:	Mr.Sajeev Kumar for Mr.Mohammed Ashish .R
For the Respondent	:	Mr.M.V.Bibin Mahesh

ORDER

This transfer petition seeks for withdrawal of H.M.O.P.No.5299 of 2023 on the file of the 1st Additional Family Court, Chennai and transfer the same to the file of the Sub Court at Uthamapalayam.

2. There is no dispute in the relationship between the parties. The petitioner is the husband and the respondent is the wife. Their marriage was solemnised on 01.09.2022. The petitioner is working at the Government Hospital at Cumbum, as a Duty General Surgeon. Due to disputes and



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differences, the parties have separated. The husband has initiated proceedings for divorce in H.M.O.P.No.249 of 2023 on the file of the Sub-Court, Uthamapalayam. Pending the proceedings initiated by the husband, the wife who was pregnant at that time, had delivered a male child on 07.06.2023. The child is now aged about a year.

3. The wife has initiated proceedings in H.M.O.P.No.5299 of 2023 seeking for restitution of conjugal rights. This proceeding is now pending before the file of the 1st Additional Family Court at Chennai. Pleading that the husband is not maintaining her or the child, she has initiated M.C.No.639 of 2023 which is said to be pending before the 6th Additional Family Court at Chennai.

4. The husband has moved this transfer petition on the ground that the wife has given three different addresses at three different points of time. He would plead that the wife is working in Bangalore and only in order to draw the jurisdiction of this Court, she had given her close relatives address, No.13/33, Driver Street, Pudupet, Chennai. He would also plead that in M.C.No.639 of 2023, she has furnished another address viz., No.347, F1, Oliyasa Serenity, 13th Street, Ram Nagar, South Extension, Madipakkam,

Pallikaranai.

<https://www.mhc.tn.gov.in/judis>



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5. He would point out that being in Government service, he is not in a position to travel from Kambam to Chennai for every hearing. Since the respondent herself is not clear about her address, he would plead that the proceedings pending in Chennai be transferred to the file of the Court at Uthamapalayam.

6. Per contra, Mr.Bibin Mahesh, would submit that the wife is permanently residing at Pallikaranai and in support thereof, he had produced the Aadhar Card of the wife. He would also state that on 08.07.2024, the respondent entered into rental agreement with the house owner of the flat, in which she is now currently residing. He would state that the Courts in Chennai are convenient for the purpose of litigation and he would request the Court to take into consideration that the respondent is 24 years old and has a child.

7. I have carefully considered the submissions of Mr.Sajeev Kumar and Mr.M.V.Bibin Mahesh.

8. The principle which governs the petition for transfer under Section 24 of CPC is informed by the amendment that had been made to the Hindu Marriage Act by the Parliament. The Courts would have to take into



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consideration the convenience of the wife. If the proceedings are transferred, it would obviously affect the interest of the husband. Yet the Parliament, in its wisdom had declared that it is the convenience of the wife, which should be considered at the time of dealing with such petitions.

9. The wife is about 24 years old and today, she is taking care of a child who is aged a year. If I were to ask her to travel from Chennai to Uthamapalayam, which is an overnight journey, it will certainly create hardship to the respondent. I cannot expect her to leave the child at Chennai and travel to Uthamapalayam, for the purpose of litigation, a distance of about 650 kms. On the contrary, if I were to transfer the proceedings from Uthamapalayam to Chennai, the prejudice that would be caused to the husband can be minimised by giving a direction to the Family Court, to accommodate the interest of the petitioner, who is the Doctor.

10. In the light of the above discussion, I am inclined to transfer the proceedings in H.M.O.P.No.249 of 2023 now pending on the file of the Sub Court, Uthamapalayam to the file of the Family Court, Chennai. This proceedings after re-numbering shall be heard and disposed of along with H.M.O.P.No.5299 of 2023, initiated by the wife. This is not only taking into the consideration the interest of the wife, but also to ensure that there are no



conflicting Judgments between the two Courts.

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11. Accordingly, the transfer petition is allowed, but not with the prayer that was sought by the petitioner. The Family Judge, Chennai, will take note of the fact that the husband is working in Government Service as a Duty General Surgeon and his presence would be essential at the Government Hospital, Cumbum. Therefore, the Court need not insist on his appearance of every date of hearing. He shall be represented by a counsel, for all hearings, including procedural hearings. He shall however present himself in person, when his appearance is indispensable or when so directed by the Court.

12. At this stage Mr.Sajeev Kumar, would submit that there is a possibility of settlement between the parties. The learned Family Judge, Chennai, on transfer, in case feels that the proceedings can be settled by way of mediation, he shall refer the parties to the mediation centre attached to the Court.

13. No costs.

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V.LAKSHMINARAYANAN, J.,

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

Neutral citation : Yes / No

To

1.The Judge

Family Court, Chennai.

2.The Sub Judge

Sub-Court, Uthamapalayam.

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