



WEB COPY



Tr.CMP.Nos.534 & 536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.CMP.Nos.534 & 536 of 2024

and

C.M.P.Nos.11969 & 11971 of 2024

Sujitha

... Petitioner in both CMPs

Vs.

Malligarjundass @ Sri Krishna

... Respondent in both CMPs.

COMMON PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code to withdraw O.P.No.185 of 2022, and O.P.No.181 of 2023 pending on the file of the Family Court, Salem and transfer the same to Family Court, Coimbatore.

For Petitioner : Mr.P.Kannan

For Respondent : M/s.S.Dhayalehsvaran

COMMON ORDER

The petitioner /wife filed Tr.CMP.No.534 of 2024, seeking to transfer O.P.No.185 of 2022, filed by the respondent/husband on the ground of desertion, which is pending before Family Court, Salem to transfer the same



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to Family Court, Coimbatore. Tr.CMP.No.536 of 2024 filed by the petitioner/wife seeking transfer of O.P.No.181 of 2023 for restitution of conjugal rights on the file of Family Court Salem and the same also transfer to Family Court Coimbatore.

2. The contention of the petitioner is that marriage between the petitioner/wife and the respondent/husband took place on 18.06.2013, and it is a love cum arranged marriage held at Salem. After the marriage both are residing at Salem and living happily. Though seven years passed after the marriage, no issues between them, and also some misunderstanding between them in this regard. Finally on 12.06.2019, the petitioner/wife chased out from the matrimonial home and thereafter, she took asylum in her parents house at Coimbatore. Till her father was alive, she was supported by her father, who was taking care of travel expenses and other expenses and hence, the petitioner was able to attend the Family Court, Salem both the case filed by the respondent/husband as well as the petitioner/wife. Now the petitioner's father Balasubramaniam passed away on 09.02.2024 and after his demise, there is none to take care and aid any financial support to the petitioner/wife, for that reason she filed these present Transfer Petitions.



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3. The learned counsel appearing for the respondent/husband submitted that it is the attitude of petitioner/wife, which caused such a situation without any reason she left from the matrimonial home on 12.06.2019. Despite the respondent/husband taken several steps to bring her back to the matrimonial home, she refused and informed that she was not comfortable to stay with his parents. Therefore, having no other option, filed a divorce petition on the ground of desertion before the Family Court Salem. As a counterblast, the petitioner/wife filed a petition for restitution of conjugal rights before the Family Court, Salem. The respondent/husband took all earnest steps to resolve the issue even after filing of the petitions before the Family Court, Salem and on three occasions, the case referred for Mediation by the Family Court and petitioner/wife appeared only once and thereafter, two other occasions she failed to participate and hence, mediation could not be successfully completed. Even today, the respondent/husband is willing to join with the petitioner/wife continue matrimonial relationship and sought for a Mediation.

4. The learned counsel appearing for the petitioner/wife submitted that



the petitioner is willing for mediation to resolve the issue and the same can be held at Coimbatore, after the case is transferred to Coimbatore.

5. Considering the facts and circumstance of the case and the contentions of the learned counsel appearing on either side, in my considered view, it is appropriate to transfer the cases in OP No.185 of 2022 and O.P.No.181 of 2023 from the file of Family Court, Salem to Family Court, Coimbatore. On receipt of the same, the Family Court, Coimbatore take steps to refer the matter to Mediator and efforts to be made to resolve the issue. In the event of failure of mediation, the Family Court, Coimbatore is directed to hear both the matters together and pass appropriate orders on merits and in accordance with law, within a period of six (6) months from the date of receipt of failure of the mediation .

6.In fine, the Transfer Miscellaneous Petitions are allowed on the above terms. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.



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To

- 1.Family Court, Salem.
- 2.Family Court, Coimbatore.



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M.NIRMAL KUMAR, J.

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