



Tr.C.M.P.No.566 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.No.566 of 2024
and C.M.P.No.12373 of 2024

B.Shanthi

... Petitioner

Vs.

T.Bharathiraja

... Respondent

PRAYER: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to withdraw the case in H.M.O.P.No.488 of 2023 on the file of the Family Court, Tiruchirappalli and to transfer the same to the file of the V Additional Family Court, Chennai, or any other Court.

For the Petitioner : Mr.A.Ganapatheeswaran

For the Respondent : Mr.T.Bharathiraja, Party-in-Person

ORDER

This Transfer Civil Miscellaneous Petition is at the instance of the wife.

2. I heard Mr.A.Ganapatheeswaran for the Transfer Petitioner and



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Mr.T.Bharathiraja, Party-in-Person opposing the transfer petition.

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3. The petitioner married the respondent on 14.07.2008 at Tiruchirappalli. The wedlock produced two children on 24.11.2009 and 22.02.2017. Post the marriage, the parties set up their matrimonial home at Vadapalani, Chennai. Due to disputes and differences, they have separated and the wife initiated H.M.O.P.No.3907 of 2019 seeking for restitution of conjugal rights and M.C.No.501 of 2019 seeking maintenance. Pending the proceedings the parties compromised the issues and the proceedings were withdrawn. Thereafter, they reunited for a short period of time and had yet again separated.

4. The petitioner/wife has returned to Chennai and the husband continues to reside in Tiruchirappalli. Feeling aggrieved over the behaviour of the petitioner/wife, the husband has initiated proceedings in H.M.O.P.No.488 of 2023 on the file of the Family Court, Tiruchirappalli. On being served with the summons, the petitioner/wife has moved the present transfer petition.

5. She pleads that she has to take care of the children and that she is



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suffering from low haemoglobin count and deficiency in iron content deteriorating her health condition. She pleads that on account of these facts, she is unable to travel the distance of 350 kms from Chennai to Trichy and seeks for transfer of H.M.O.P.No.488 of 2023 to the file of the Family Court, Chennai.

6. Notice was ordered in this petition on 21.06.2024. The respondent has been served and he is present in Court, opposing the transfer.

7. The respondent has filed detailed counter. In the counter, he pleads about the alleged acts of cruelty committed by the wife on him. He states that the wife having treated him in an inhuman manner is not entitled for any consideration at the hands of this Court.

8. I have considered the submissions made by Mr.A.Ganapatheeswaran and Mr.T.Bharathiraja.

9. In matters of transfer, the Parliament as well as the Supreme Court had declared that it is the convenience of the wife which has to be taken into



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consideration. Despite the vehement and fervent pleas of the party-in-person that the law has to treat the parties equal, I necessarily have to follow the views taken by the Supreme Court in this regard.

10. The difficulties that has been expressed by the husband to travel from Tiruchirappalli to Chennai can always be obviated by giving some directions to the Family Court at Chennai. There is no dispute that the girl child is aged about 15 years and the second child is aged about 7 years. The children are also studying in Institutions in Chennai. It would be well nigh impossible for the wife to leave the children all alone in Chennai and travel to Tiruchirappalli to attend the litigation. Taking the over all aspects into consideration, I am inclined to accept the transfer.

11. Accordingly, H.M.O.P.No.488 of 2023 on the file of the Family Court, Tiruchirappalli is withdrawn and transferred to the file of the Family Court, Chennai.

12. With respect to the difficulties expressed by the husband, in case, he engages a counsel before the Family Court, Chennai, the Court shall not



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insist on his personal appearance for every hearing. He shall however present himself whenever his appearance is essential or when so directed by the Family Court.

13. With the above directions, this Transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

18.10.2024

Index : Yes/No

Neutral Citation : Yes/No

Speaking order / Non-speaking order

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To

1.The Judge,
Family Court, Tiruchirappalli.

2.The Judge
Family Court, Chennai.



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V.LAKSHMINARAYANAN, J.

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