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Tr.C.M.P.No.700 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P.No.700 of 2022

Revathi

...Petitioner

Vs

Harish Anbuselvam

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.107/2019 pending on the file of Sub Court, Tindivanam and transfer the same to Family Court, Tiruvannamalai.

For Petitioner : Mr.B.Jawahar

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.107 of 2019 from the file of the Sub Court, Tindivanam and transfer the same to the file of the Family Court, Thiruvannamalai.

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2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 28.08.2018 as per Hindu rites and customs at D.K.B.Thirumana Mandapam at Tindivanam. After few months, the respondent has started ill-treating the petitioner and was not taking care of her. Due to difference of opinion between them, the petitioner left the company of the petitioner and residing with her parents. The respondent filed H.M.O.P.No.107 of 2019, on the file of the Sub Court, Tindivanam, for divorce. The wife has also filed D.V.C.No.20/2022, before the Judicial Magistrate Court (Mahila Court) at Thiruvannamalai.

3.According to the petitioner, the distance between Thiruvannamalai and Tindivanam is more than 80 kilometers and hence, it is very difficult for her to go to Tindivanam to attend the proceedings in H.M.O.P.No.107 of 2019. In the H.M.O.P pending before the Sub Court, Tindivanam, the presence of spouse is mandatory for each and every hearing. In the said circumstances, the petitioner has come out with the present Tr.C.M.P. to

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transfer H.M.O.P.No.107 of 2019 from the file of the Sub Court, Tindivanam, to the file of the Family Court, Thiruvannamalai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent, it has been returned with an endorsement "left". There is no representation on behalf of the respondent either in person or through counsel.

5.The contention of the learned counsel for the petitioner that the petitioner finds it difficult to travel nearly 80 kilometers from Tindivanam to Thiruvannamalai to attend the case in H.M.O.P.No.107 of 2019, has considerable force.

6. Taking into consideration of the fact that convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta]** and **AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]** and H.M.O.P.No.107 of 2019 is

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ordered to be withdrawn from the file of the Sub Court, Tindivanam and

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J.NISHA BANU,J.

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transferred to the file of the Family Court, Thiruvannamalai, the District where the DVC proceedings is also pending. The learned Judge, Sub Court, Tindivanam, is directed to transmit all the records pertaining to H.M.O.P.No.107 of 2019 to the file of the Family Court, Thiruvannamalai, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered.

No costs.

20.02.2024

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To

- 1.The Sub Court, Tindivanam.
- 2.The Family Court, Tiruvannamalai.

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