



Tr.CMP.649/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**Tr.CMP.No.649 of 2024 &
CMP.No.13922 of 2024**

B. Jansi	...	Petitioner
Vs.		
R.Sakthivel	...	Respondent

Civil Revision Petition filed under Section 24 of CPC praying to withdraw the HMOP.No.659 of 2024 on the file of the Family Court, Madurai and transfer the same to the Family Court, Chennai.

For petitioner : Mr.Prabhu C.

For Respondent : Mr.M.Sivavarthanan

ORDER

The petitioner is the wife. The respondent is the husband. The marriage between the parties solemnised on 24.05.2023 at Tallakulam in Madurai.

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2. Due to disputes and differences, the parties were separated. The husband has initiated proceedings for divorce invoking provisions of section 13(1) (i a) of Hindu Marriage Act in HMOP.No.659 of 2024 before the Family Court Madurai. In the petition itself, it is shown that the respondent/wife is a permanent resident of Vyasarpadi. Since she is unable to travel from Chennai to Madurai, the petitioner had moved this transfer petition.

3. Notice was ordered in this petition on 18.07.2024 and Mr.M.Sivavarthanan, learned counsel has entered appearance for the respondent/husband.

4. The respondent/husband would plead that he would file a detailed counter and argue. He adds the matter is posted for ex-parte evidence before the trial court on 10.10.2024 and on this short ground, this transfer petition may be dismissed.

5. The fact that the petitioner is unable to travel from Chennai to Madurai



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shows that it is the reason for her being set ex-parte before the trial court. It is settled position of law, even if a person is set exparte, he can always participate in the proceedings and get the petition dismissed. By setting the person exparte, a party loses her right to file her counter to the application. That does not mean she also loses her right of cross examination.

6. Be that as it may, as the distance between Madurai and Chennai is over 600 kms and would require overnight travel, I am inclined to consider the transfer petition.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The proceedings in HMOP.No.649 of 2024 is withdrawn from the file of Family Court, Madurai and transferred to the file of Family Court at Chennai for joint trial. No costs. Consequently, the connected miscellaneous petition is closed.

8. The learned counsel for the respondent/husband submitted that the respondent/husband is permanent resident of Madurai.



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9. It is made clear that the Family Court, Chennai need not insist upon the respondent/husband to appear for every hearing except the essential hearing.

The respondent shall be present only for such hearings when his appearance is indispensable. For all other hearings, the respondent shall be represented by a counsel.

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Index: yes/no
Internet:yes/no
msr

To

1. The Family Court, Chennai
2. The Family Court, Madurai.



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V. LAKSHMINARAYANAN, J.

msr

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