



WEB COPY



Tr.C.M.P.Nos.717 & 799 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.Nos. 717 & 799 of 2024

&

C.M.P.Nos.15606, 17727 & 19499 of 2024

Tr.C.M.P.No.717 of 2024:

Jayasree

...Petitioner

Vs.

1.P.Muthupandiyan

2.S.Gajendran

3.G.Aishwarya

...Respondents

Prayer: Transfer Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case in H.M.O.P.No.684 of 2024 on the file of the Family Court, Madurai and transfer the same to the Family Court, Coimbatore.



Tr.C.M.P.Nos.717 & 799 of 2024

Tr.C.M.P.No.799 of 2024:

Jayasree

...Petitioner

Vs.

P.Muthupandiyan

...Respondent

Prayer: Transfer Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case in G.W.O.P.No.62 of 2024 on the file of the Principal District Judge, Madurai and transfer the same to the Family Court, Coimbatore.

For Petitioner : M/s. A.Salomi
(In both petitions)

For Respondent 1: Mr. K.S.Karthik Raja
(In both petitions)

ORDER

These two transfer petitions are filed seeking for transfer of H.M.O.P.No.684 of 2024 on the file of the Family Court, Madurai and G.W.O.P.No.62 of 2024 on the file of the Principal District Court, Madurai. Since the issues involved and the parties are common, I have clubbed the matter and heard them together.



WEB COPY

2. Heard M/s. A.Salomi on behalf of Mr.Udaya P.S. Menon for the petitioner and Mr.K.S.Karthik Raja for the respondent.

3. There is no dispute in the relationship between the parties. The petitioner married the 1st respondent at Madurai on 16.09.2011. The wedlock produced a girl on 25.07.2012. The parties were happily residing together till 2023. Thereafter, due to dispute and differences, the parties have separated. The 1st respondent was first of the block and he initiated H.M.O.P.No.1462 of 2023, seeking for restitution of conjugal rights before the Family Court, Madurai.

4. Immediately, on being served with the summons, the wife filed Tr.C.M.P.No.88 of 2024. In the said petition, on being served with the summons, the husband withdrew the case and presented H.M.O.P.No.684 of 2024. His fresh cry before the Court is that he was not aware about the fact that his wife was already married to the 2nd respondent, namely, Gajendran and hence he sought for declaration of



the marriage as nullity, invoking Section 11 of the Hindu Marriage Act.

WEB COPY

5. The wife pleads that she is a permanent resident of Coimbatore and she is not in a position to travel about the distance of 200 KM from Coimbatore to Madurai to attend every hearing. After having presented H.M.O.P.No.684 of 2024, the husband has initiated G.W.O.P.No.62 of 2024, on the file of the Principal District Court, Madurai, seeking for the custody of the female child, Thaa Priya. Pleading the very same reason of physical and financial inability, the wife wants the GWOP proceedings to be transferred to the file of the Family Court, Coimbatore.

6. Notice was issued in both the petitions and interim stay was granted.

7. On being served with notice in both the petitions, the husband has entered appearance through counsel and filed a detailed counter.



According to him, he is aged about 71 years and suffering from Cervical Spondylosis and Neuropathy. Therefore, it would be inconvenient for him to travel from Madurai to Coimbatore to attend every hearing. In addition, Mr.Karthik Raja would contend that the first husband of the transfer petitioner, namely, Gajendran is willing to depose in the proceedings at Madurai and not at Coimbatore. His reluctance to appear before the Court at Coimbatore is on account of the fact that the petitioner's brother seems to be an influential person, who uses third degree methods against any person who is opposing their family. This allegation is strongly denied by Ms.Salomi.

8. I have carefully considered the arguments of both the sides and gone through the papers.

9. When it comes to the matter of transfer, the convenience of the wife takes more priority than that of the husband. It is not in dispute that the wife is a resident of Coimbatore and is having custody of a female child, who is aged about 12 years. It would not be possible for



the mother to travel to Madurai, leaving her girl child of that age all alone or in the company of her elderly mother, to attend the hearings.

10. Apart from that, the wife has also initiated M.C.No.32 of 2024 on the file of the Family Court, Coimbatore, in which proceedings the husband is participating. In addition, she has also initiated proceedings invoking the provisions of the Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate at Coimbatore. This proceeding is numbered as D.V.C.No.212 of 2024. When the husband is appearing for the maintenance and DVC cases, it would not be impossible for him to appear before the Court at Coimbatore for the purpose of proceeding further with his petitions for nullity and guardianship.

11. Furthermore, the child would be present in the Court at Coimbatore. Therefore, it is in the interest of the child that she is not shuttled between Coimbatore and Madurai for the purpose of being interviewed by the learned Judges.



WEB COPY

12. Insofar as the plea of Mr.Karthik Raja that Mr.Gajendran, the 2nd respondent is willing to depose on his side is concerned, a perusal of the petition shows that Gajendran is a permanent resident of Coimbatore. The plea is that the brother of the transfer petitioner might create some problems for Mr.Gajendran, while deposing against his sister. The fact that the petitioner's brother is an influential person does not cut ice for the simple reason that the learned Judge at Coimbatore is not going to be influenced by any such behaviour.

13. Therefore, both the petitions stand allowed. The proceedings in H.M.O.P.No.684 of 2024 on the file of the Family Court, Madurai and G.W.O.P.No.62 of 2024 on the file of the Principal District Court, Madurai are withdrawn and transferred to the file of the Family Court, Coimbatore. The Family Court Judge, Coimbatore, is requested to club these two proceedings along with M.C.No.32 of 2024 pending on the file of the Additional Family Court, Coimbatore and dispose of the same by rendering common Judgement in all the three proceedings.



Tr.C.M.P.Nos.717 & 799 of 2024

WEB COPY

14. The evidence for the purpose of convenience of all the parties and the counsel may be recorded in common. Since Mr. Karthik Raja pleads that his client is a senior citizen, the Family Court, Coimbatore need not insist upon the appearance of the husband on all hearings. The husband, however, shall be present before the Court when his presence is essential and is indispensable or when so directed by the learned Trial Judge.

15. In the result, the Transfer Civil Miscellaneous Petitions are allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

06.09.2024

Index : Yes/No
Internet : Yes/No
kan



Tr.C.M.P.Nos.717 & 799 of 2027

To

WEB COPY

- 1.The Family Court,
Madurai.
- 2.The Family Court,
Coimbatore.
- 3.The Principal District Judge,
Madurai.

V.LAKSHMINARAYANAN, J.

kan



WEB COPY



Tr.C.M.P.Nos.717 & 799 of 2024

Tr.C.M.P.Nos. 717 & 799 of 2024

06.09.2024