



Tr CMP No.752 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr CMP No.752 of 2024 &
CMP.No.16398 of 2024

Dr.A.C.Vaiera Manigandan : Petitioner

versus

Dr.Sankari Mathiyalagan : Respondent

Prayer: Petition filed under Section 24 of the Constitution of India to withdraw HMOP.No.44 of 2023 on the file of the Subordinate Court, Oddanchatram, Dindigul District and transfer the same to along with the HMOP.No.94 of 2023 on the file of the Subordinate Court, Mettur, Salem District.

For Petitioner : Mr.K.Rishi Adithya
for Mr.R.Muruga Bharathi

For Respondent : Mr.T.Dharani
for Mr.K.Muthu Ganesa Pandian



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ORDER

The petitioner is the husband. He seeks to transfer the proceedings initiated by the wife in HMOP.No.44 of 2023 now pending before the Subordinate Court at Oddanchatram to be tried along with his divorce petition in HMOP.No.94 of 2023 on the file of the Subordinate Court at Mettur.

2. The petitioner married the respondent on 03.06.2018. At the time of wedding, the petitioner was working as Senior Resident Doctor at Sri Ramachandra Medical College Hospital at Porur. The respondent was then undergoing her course at Government Mohan Kumaramangalam Hospital at Salem. As a result of the wedlock, a child was born to the couple on 23.03.2019. Due to disputes and differences, the husband and wife have separated. The child is said to be in the custody of the mother and is currently studying in kinder garten at Oddanchatram.



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3. The wife has initiated a proceeding in HMOP No.44 of 2023 on the file of the Subordinate Court at Oddanchatram seeking restitution of conjugal rights. The husband too has initiated a proceeding but for divorce in HMOP.No.94 of 2023 on the file of the Subordinate Court at Mettur.

4. The basis for the transfer is that the respondent/wife is now working at Edapadi Government Hospital and therefore, it will be convenient for the wife to contest her proceedings at Salem instead of travelling to Oddanchatram.

5. Mr.Dharani appearing for the respondent would plead that the wife, who spends her weekends with her son, is seeking a transfer from the Edapadi hospital to the one in Oddanchatram.

6. It is not in all cases that the place in which the wife is working should be considered for the purpose of transfer. The wife is in Government service and it is a transferable job. The transfer, being an incident of service, it is possible that the wife will be transferred all over Tamilnadu that does



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not mean the proceedings should follow wherever she goes.

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7. She has found it convenient to initiate a proceeding for restitution of conjugal rights before the Court in Oddanchatram. The other proceeding in HMOP.No.94 of 2023 is one for divorce. Interest of justice requires the divorce proceeding and the restitution of conjugal rights proceeding to be tried together.

8. Taking into consideration the aforesaid facts, I am inclined to accept the transfer, however not as sought for by the petitioner. Accordingly, HMOP No.94 of 2023 on the file of the Subordinate Court, Metter shall stand withdrawn and be transferred to the file of the Subordinate Court at Oddanchatram. It shall be heard and disposed of along with HMOP No.44 of 2023. The learned Subordinate Judge at Oddanchatram will take into consideration that the petitioner/husband is working in Government Mohankumaramangalam Medical College Hospital, Salem and being an



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essential service, he shall not insist on the appearance of the husband for every hearing, except for essential hearings.

9. With the above directions, this transfer civil miscellaneous petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

20.09.2024

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Index : Yes/No
Speaking Order/Non-speaking order
Neutral Citation : Yes/No

To

1. The Subordinate Court, Metter
2. The Subordinate Court at
Oddanchatram



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V.LAKSHMINARAYANAN, J.

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