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Tr.CMP.No.803 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Tr.CMP No.803 of 2023

and

CMP.No.19343 of 2023

Snehalatha

... Petitioner

-Versus-

Niranjan Kumar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. seeking to withdraw the HMOP.No.29 of 2023 on the file of the Family Court, Thanjavur and transfer the same to the file of the Subordinate Court at Thiruvarur.

For Petitioner : *Ms.G.S.Janani*

For Respondent : *Mrs. Vijayakumari Natarajan*

ORDER

The petitioner and the respondent entered into matrimony on 15.11.2021. Soon after the wedding, they were separated. The respondent/husband is residing in Thanjavur and the petitioner/wife is residing of Tiruvarur. Stating that she has not been maintained by her husband, who is an employee of the



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postal department, she has initiated proceedings in M.C.No. 17 of 2022 on the file of the Chief Judicial Magistrate at Thiruvarur.

2. After the MC proceedings had been filed, a notice has been served on the husband. He has initiated HMOP.29 of 2023 on the file of the Family Court at Thanjavur. Pleading her inability to travel to Thanjavur from Thiruvarur and also due to the lack of financial assistance from the husband, which constrains her to be at the mercy of her parents, she has moved this transfer petition.

3. Heard Ms.G.S.Janani and Mr.Vijayakumari Natarajan for the respective parties.

4. A perusal of the papers shows that the wife had initiated MC.No.17 of 2022 before the learned Chief Judicial Magistrate, Thiruvarur. The respondent, on receipt of M.C proceedings, has initiated restitution of conjugal rights before the Family Court at Thanjavur. In other words, the proceeding initiated by the husband is subsequent to the proceeding initiated by the wife. She is not being maintained by her husband and Ms.G.S.Janani would submit that she, not currently having any source of income, would find it extremely difficult to undertake the travel to Thanjavur from Thiruvarur.

5. Mrs.Vijayakumari Natarajan would state that the husband is working in the Central Government and therefore, he cannot take holidays for the



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purpose of attending court proceedings.

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6. If the matter is posted before the Subordinate Court at Thiruvarur, there is no necessity for the husband to appear in persons for all the hearings. He can always represent the proceedings through counsel. His presence would be essential for hardly a couple of days, when the evidence has to be recorded.

7. Taking into consideration the overall circumstances of the case, I am inclined to allow the transfer petition. HMOP.No.29 of 2023 is withdrawn from the file of the Family Court at Thanjavur and is transferred to the Sub Court at Thiruvarur. Learned Subordinate Judge, Thiruvarur, is requested to give a date for the case on the same date on which M.C.No.17 of 2022 is listed for hearing before the Chief Judicial Magistrate at Thiruvarur. This will obviate the necessity for the respondent/husband to travel twice to two different courts for two different hearings.

8. Accordingly, this transfer civil miscellaneous petition is allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes/No

Speaking Order/Non-speaking order

Neutral Citation : yes/No



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V.LAKSHMINARAYANAN, J.

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To

- 1.The Family Court at Thanjavur
- 2.The Sub Court at Thiruvarur

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