



TR.CMP.No.1012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

TR.CMP.No.1012 of 2023
and CMP.No.24395 of 2023m

Malarvizhi

... Petitioner

Vs

V.Vinoth Kumar

... Respondent

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the F.C.O.P.No.7 of 2023 pending on the file of the Family Court, Chengalpattu, and transfer the same to the Principal Subordinate Court at Kancheepuram.

For Petitioner : Mr.G.Jeremiah
for Mr.A.Gopinath

For Respondent : No Appearance



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ORDER

The petitioner-wife has presented this petition to withdraw the petition filed by the first respondent-husband in F.C.O.P.No.7 of 2023 before the Family Court, Chengalpattu, and transfer it to Principal Subordinate Court at Kancheepuram.

2. The petitioner is the wife. She married the respondent on 25.10.2015. From the wedlock, a male child was born and it is under the custody of the mother. Due to disputes and differences, the parties have separated. The petitioner wife pleads that the respondent-husband had filed a petition for divorce in F.C.O.P. No.64 of 2017 before the Family Court, Chengalpattu. The wife being a resident of Kancheepuram, initiated M.C.No.4 of 2017 before the Judicial Magistrate at Kancheepuram.

3. The wife pleads that on service of summons in the maintenance case, in order to avoid paying the maintenance to the petitioner-wife, the husband had withdrawn the petition for divorce, and took the wife and child back to his home. The maintenance case filed by the petitioner-wife was also



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withdrawn by her. The wife alleges that her husband yet again changed the track and started picking up quarrel with the petitioner and she was thrown out of the matrimonial home on 09.12.2022. Since then, the petitioner and her minor child are staying at her parental home in Kancheepuram.

4. The petitioner pleads that the respondent-husband had now initiated F.C.O.P. No.7 of 2023 before the Family Court, Chengalpattu for restitution of conjugal rights. She also pleads that she is under the care and custody of her parents and so is her minor child. She pleads that since she has no individual source of income, she is not in a position to meet the growing needs of her son, who is a school going child. That part, her travel to Chengalpattu to attend the court hearings incur major expenses, and on those days, she is not able to attend the chores of her son. Moreover she also finds it physically difficult to traverse this distance. Hence, this transfer petition.

5. Notice was ordered in the transfer petition on 02.11.2023. Despite service of notice on the respondent, he neither entered appearance through a counsel nor in person to oppose this petition.



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6. Taking into consideration the difficulties that have been faced by the petitioner-wife both physically and financially, I am inclined to consider the transfer. Accordingly, F.C.O.P..No.7 of 2023, pending on the file of Family Court, Chengalpattu is withdrawn and transferred to Principal Subordinate Court, Kancheepuram.

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

24.07.2024

Index: Yes/No
Neutral Citation : Yes / No
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To:

1. The Family Court
Chengalpattu.
2. The Principal Subordinate Court
Kancheepuram.
3. The Section Officer
VR Section, High Court, Madras.

V.LAKSHMINARAYANAN,J.



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