



Tr. C.M.P.Nos.964 & 966 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

CORAM

THE HON'BLE MR.JUSTICE **V.LAKSHMINARAYANAN**

Tr. C.M.P.Nos.964 & 966 of 2024
and
C.M.P.Nos.21043 & 21074 of 2024

Premkumar

... Petitioner in both petitions

versus

Sankar

... Respondent in both petitions

Common Prayer: Petitions filed under Section 24 of the Code of Civil Procedure to withdraw the O.P.No.180 of 2023 pending on the file of the Principal District Court, Vellore and to transfer the same to the file of the Family Court, Chennai, to be heard and decide and pass other order and to withdraw G.W.O.P.No.63 of 2023 pending on the file of the Principal District Court, Thiruvannamalai and to transfer the same to the file of the Family Court, Chennai to be heard and decide and pass any other order.



Tr. C.M.P.Nos.964 & 966 of 2024

For Petitioner in both petitions : Ms.Balambigai Gowri
For Mr.S.Namasivayam

For Respondent in both petitions : Mr.Y.Kajanavas

COMMON ORDER

This petition seeks for withdrawal of O.P.No.180 of 2023 pending on the file of the Principal District Court at Vellore and to transfer the same to the file of the Family Court at Chennai.

2. The relationship between the parties is not in dispute. The transfer petitioner namely Premkumar married one Gunasankari, the daughter of respondent Mr.Sankar. Unfortunately, she ended her life by suicide. On account of wedlock between the petitioner and the deceased Gunasankari, two children were born to the couple. One is a girl, and the other is a boy. The daughter is aged about 5 years and the son is aged about 2 ½ years. After Gunasankari passed away, disputes arose between the petitioner and the respondent. The girl child is with her father and the infant is with the



Tr. C.M.P.Nos.964 & 966 of 2024

respondent/grandfather.

3. The respondent/grandfather initiated G.W.O.P.No.180 of 2023 on the file of the Principal District Court at Vellore. The petitioner/father initiated G.W.O.P.No.63 of 2023 on the file of the Principal District Court at Tiruvannamalai.

4. As the petitioner/father has taken up an employment at Chennai, he has moved this transfer petition. In addition to the plea of convenience, the father pleads that each time, he travelled to attend the case in Vellore, a complaint is lodged with the police either at the instance of his father-in-law or at the instance of his father-in-law's second wife.

5. I should point out here, it is not in dispute that the father-in-law was in police service, until a decade ago. Pleading that, he is unable to travel to Vellore and Tiruvannamalai, he has moved the transfer petition.

6. Notice was issued in the transfer petition. Mr.Y.Kajanavas, has



Tr. C.M.P.Nos.964 & 966 of 2024

entered appearance for the respondent.

7. Ms. Balambigai Gowri, pleads that as the elder child is in Chennai and studying in a very reputed institution, the father is not in a position to leave her at Chennai and undertakes the travel to Tiruvannamalai and to Vellore.

8. Per contra, Mr.Y.Kajanavas, states that the grandparents are aged and that the petitioner/father has not even visited the child even once in the entire existence of 2 ½ years. He pleads that the wife died on account of the harassment of the husband and that the complaints that are lodged by the mother-in-law Tmt.Indhumathi and the father-in-law Mr.Shankar were on account of actual incidents that had taken place between the parties. He further pleads that the girl child too was in the custody of the grandparents and the father had kidnapped the child, when the child was going to School. Therefore, he urges the transfer petition should be dismissed.

9. I have carefully considered the submissions of Ms. Balambigai



Gowri and Mr.Y.Kajanavas.

10. The assertion of the petitioner is that he is working in a hospital in Chennai. Ms.Balambigai Gowri took me to through the records to demonstrate that the girl child is studying in a premier institution at Chennai. The father is the natural guardian of the children. When the primary care taker, the mother is no more, it would fall on the father to take care of the children. The two type set of papers filed by Mr.Y.Kajanavas, shows that two First Information Reports' had been registered against the petitioner/father on the file of the Bhagyam Police Station within whose jurisdiction, the Family Court, Vellore is situated. The father has a fear that the office of the police at Vellore will launch a case against him, each time he visits the Court, for the purpose of attending the litigation.

11. Further, it would be impossible for the father to leave a 5 year old child in Chennai and travel to Vellore and Tiruvannamalai, for the purpose of attending the hearings. This difficulty does not arise in case of



Tr. C.M.P.Nos.964 & 966 of 2024

respondent/grandfather.

12. Chennai is well connected with Vellore and it is only about a 3 hours drive from Vellore to Chennai. The grandfather can always travel the distance and attend the hearing at Chennai. More difficulty will be caused to the father, who is employed in Chennai and especially in a private hospital, in case, he is called upon to appear at Tiruvannamalai and Vellore.

13. Being a Guardian Wards Original Petition, interest of justice required in O.P.No.180 of 2023 as well as G.W.O.P.No.63 of 2023 are heard together and disposed of by one learned Judge. Accordingly, both the proceedings are withdrawn and transferred to the file of the Family Court, Chennai. The learned Principal Judge, Family Court at Chennai shall club both the proceedings and post it to one Court. They shall be disposed of by a common order. Taking into consideration the interest of the parties, the Family Court will pass appropriate orders on visitation as well as interim custody for the girl and the boy child prior to taking up G.W.O.Ps for



Tr. C.M.P.Nos.964 & 966 of 2024

disposal.

14. The Transfer Civil Miscellaneous Petitions are allowed. No costs.

Consequently, the connected miscellaneous petitions are closed.

06.11.2024

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Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation Case : Yes/No

To

1.The Principal District Judge, Vellore.

2.The Family Judge, Chennai.

3. The Principal District Judge, Thiruvannamalai.



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Tr. C.M.P.Nos.964 & 966 of 2024

V.LAKSHMINARAYANAN, J.

ssi

Tr. C.M.P.Nos.964 & 966 of 2024

06.11.2024