



Tr.C.M.P.No.1301 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P.No.1301 of 2022
and C.M.P.No.22033 of 2022

G.Harithira

...Petitioner

Vs

Ganeshmoorthi

... Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.53 of 2020 on the file of the Sub Court, Sankarankovil and to transfer the same to the Family Court, Tiruppur District.

For Petitioner : Mr. A.Saravanan
For Respondent : Mr.S.Esakkimuthu

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.53 of 2020 on the file of the Sub Court, Sankarankovil and to transfer the same to the Family Court, Tiruppur District.

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WEB COPY 2. The petitioner is the wife and respondent is the husband.

The learned counsel for the petitioner would contend that the marriage between the petitioner and respondent was conducted on 05.06.2017 as per Hindu rites and customs at Arulmigu Meenachi Sundareshwarar Temple, Kuruvikulam, Thiruvengadam Taluk. Out of the wed lock, one male child viz., Susvanth was born and he was aged about 5 years. Later, the respondent has demanded money and started ill-treating the petitioner and behaved arrogantly. Thereafter, he forcibly sent the petitioner out of matrimonial home. In these circumstances, the respondent filed H.M.O.P.No.53 of 2020 on the file of the Sub Court, Sankarankovil, for divorce.

3.According to the petitioner, the distance between Tiruppur and Sankarankovil is about 290 kilometers and hence, it is very difficult for her to go to Sankarankovil to attend the proceedings in H.M.O.P.No.53 of 2020 along with her minor son who is aged about 5 years. In the H.M.O.P pending before the Sub Court, Sankarankovil, the presence of spouse is



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mandatory for each and every hearing. In the said circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.53 of 2020 from the file of the Sub Court, Sankarankovil, to the file of the Family Court, Tiruppur District.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5.The contention of the learned counsel for the petitioner that the petitioner finds it difficult to travel nearly 290 kilometers from Tiruppur to Sankarankovil to attend the case in H.M.O.P.No.53 of 2020, which will affect both the education and mental health of her minor son, has considerable force.

6. Taking into consideration that convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta]** and **AIR 2002 SC 396 [Sumita Singh Vs.**



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Kumar Sanjay and another], and to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts, H.M.O.P.No.53 of 2020 is ordered to be withdrawn from the file of the Sub Court, Sankarankovil and transferred to the file of the Family Court, Tiruppur District. The learned Judge, Sub Court, Sankarankovil, is directed to transmit all the records pertaining to H.M.O.P.No.53 of 2020 to the file of the Family Court, Tiruppur District, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently connected miscellaneous petition is closed.

05.03.2024

msv

To

- 1.The Judge, Sub Court, Sankarankovil
- 2.The Judge, Family Court, Tiruppur District.

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WEB COPY



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msv

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