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Tr.CMP No.1020 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

TR.CMP No.1020 of 2023
and C.M.P.No.24632 of 2023

C.Sasikala

.... Petitioner

-Vs-

R.Balaji

.... Respondent

Prayer : Transfer Civil Miscellaneous Petition under Section 24 of C.P.C., to withdraw the divorce petition in HMOP No.470 of 2023 on the file of the Family Court, Salem and to transfer the same to the Sub Court, Aranthangi, Pudukkottai District.

For Petitioner : Mr.D.Velu

For Respondent : Mr.K.V.Dhanapalan
for M/s.T.Fenn Walter Associates

ORDER

The petitioner is the wife. She solemnized her marriage with the respondent on 29.08.2017 at Manamelkudi in Pudukkottai District. From the wedlock, a female child was born on 27.05.2019. The respondent is a permanent resident of Salem. He has initiated HMOP No.470 of 2023 on the file of the Family Court at Salem for divorce on



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grounds of cruelty and desertion. The petitioner pleads that the distance between her village Kattumavadi and Salem is around 250 Kms. She states she finds it difficult to appear before the Family Court at Salem for every hearing. She pleads that on account of the fact that she cannot leave the girl child behind at Kattumavadi Village, she is constrained to travel to Salem along with the child. Hence, pleading physical inability to traverse the distance between Kattumavadi village and Salem Town, she seeks for this transfer.

2. Notice was ordered in the application on 02.11.2023. M/s.T.Fenn Walter Associates entered appearance for the respondent.

3. Mr.K.V.Dhanapalan, learned counsel appearing for the respondent-husband would submit that the respondent had taken steps seeking for restitution of conjugal rights and yet it was the petitioner-wife who refused to join. He would state that he has taken all possible steps for restoration of the relationship and the same is being stone-walled by the wife. Though he has filed the proceedings in Salem, he would state that he is currently working in Chennai and he will find it difficult if the proceedings are transferred to Aranthangi, Pudukkottai District. Therefore, he would plead that the transfer be made to a mid-point or a place nearer to the wife's residence say Tiruchirapalli.



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4. I have considered the submissions made by the learned counsel appearing for both sides.

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5. The relationship between the parties and the birth of the child are not in dispute. The fact that the petitioner is residing at Kattumavadi in Pudukkottai District is also not in dispute. The husband has initiated the proceedings before the Family Court at Salem, on account of the fact that the matrimonial home was set up at Kamaraj Nagar Colony, Salem. As the the petitioner is taking care of a five year old girl child, it would not be possible for her to leave the child and travel. The distance between Pudukkottai and Salem is considerable. Taking into consideration the physical inability of the petitioner, I am inclined to accept the transfer petition.

6. The problem expressed by the husband will also be obviated if the proceedings are transferred from a Family Court to a Subordinate Court. It is always open to the respondent-husband to engage a counsel and prosecute the case. Therefore, the learned Subordinate Judge, Aranthangi, Pudukkottai District is requested not to insist the appearance of the respondent-husband on every hearing. The husband shall appear for all essential hearings where his presence is indispensable. For the other hearings including procedural matters, he will be represented through a counsel.



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V. LAKSHMINARAYANAN, J.

KST

7. Accordingly, the Tr.C.M.P. is allowed. No costs. Consequently, connected miscellaneous petition is closed. The proceedings in HMOP No.470 of 2023 on the file of the Family Court, Salem is withdrawn and transferred to the file of the learned Subordinate Judge, Aranthangi, Pudukkottai District.

25.06.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

- 1.The Family Judge, Salem.
- 2.The Subordinate Judge, Aranthangi, Pudukkottai District.

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