



WEB COPY



Tr.CMP. No.1037 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

Tr. CMP. No.1037 of 2023
and CMP.No.25144 of 2023

Vedhakumari

... Petitioner

Vs

Elayaraja

... Respondent

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., praying to withdraw the HMOP.No.440 of 2023 from the file of Family Court, Puducherry and transfer the same to the file of Family Court, Chennai.

For Petitioner : Mr.K.Murthy
For Respondent : Ms.Lavanya Thirumalai

ORDER

The petitioner-wife has presented this petition to withdraw the petition in H.M.O.P.No.440 of 2023 filed by the respondent-husband before the Family Court, Puducherry and transfer it to Family Court at Chennai.



Tr.CMP. No.1037 of 2023

WEB COPY 2. The petitioner is the wife. She married the respondent on 11.11.2016.

From the wedlock, a male child was born on 26.10.2017. After the marriage, the petitioner had developed health issues which was later on discovered to be a stroke in the brain. After the petitioner had taken treatment in JIPMER, Pondicherry, she was referred to SIMS Hospital at Chennai, for further treatment.

3. According to respondent-husband, the petitioner-wife had suffered from stroke and severe headache even from her young age and suppressing these facts, the petitioner was married to him. Alleging these grounds, he had initiated proceedings for divorce under Section 13(1)(ia) and Section 13(1)(iii) of the Hindu Marriage Act, 1955 in H.M.O.P.No.440 of 2023 before the Family Court, Puducherry.

4. The petitioner would plead that she has no permanent income, and that she and her son are under the care of her father for their food, shelter and clothing. She pleads that she incurs a sum of Rs.1,500/- each time to traverse from Chennai to Puducherry. She also finds it difficult to travel all alone from



Chennai to Puducherry, and therefore she is forced to seek the assistance of her father during her visit to Puducherry to attend the court hearings. Moreover, since there is no one to take care of her minor child in her absence, she finds it difficult leaving him all alone during her travel to Puducherry.

5. Heard Mr.K.Murthy for the petitioner and Ms.Lavanya Thirumalai for the respondent.

6. The ground on which the divorce is sought by the respondent-husband is that the petitioner-wife who is suffering from brain stroke was married to him suppressing the fact of illness. Both parties agree that the wife is suffering from an illness affecting her brain. In addition, the wife pleads financial inability, as she neither has individual income nor is she and her son are maintained by her husband. Since she is staying at her parent's house in Chennai, she also pleads physical inability to travel to Puducherry for every hearing.

7. Taking into consideration the financial and physical difficulties experienced by the wife as well as the illness she is suffering from, H.M.O.P.No.440 of 2023 on the file of Family Court, Puducherry, is withdrawn



Tr.CMP. No.1037 of 2023

and transferred to Family Court at Chennai.

WEB COPY

8. Since the respondent-husband is working in Police Department, it would not be possible for him to take leave or absent himself from his official duty to attend every court hearing. Therefore, the Family Judge, Chennai need not insist upon the appearance of the husband on every hearing, unless his presence is essential and indispensable, and for all other non-essential or procedural hearings, he may be represented through his counsel.

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

29.07.2024

Index:Yes/No

Neutral Citation : Yes/No

Speaking order/Non-speaking orders

To:

1.The Family Judge, Puducherry

2.The Family Judge, Chennai

3.The Section Officer

4/6



VR Section, High Court, Madras.

WEB COPY



Tr.CMP. No.1037 of 2023



WEB COPY



Tr.CMP. No.1037 of 2023

V.LAKSHMINARAYANAN,J.

ds

Tr.CMP. No.1037 of 2023

29.07.2024