



Tr.CMP.No.1052 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.No.1052 of 2023

and

C.M.P.No.25363 of 2023

Deepika

.. Petitioner

Vs.

Naveen Kumar

.. Respondent

Prayer : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in O.P.No.1836 of 2022 on the file of the Additional Family Court at Coimbatore and transfer the same to the file of the Sub Court at Palani to be heard along with O.P.No.33 of 2023.

For Petitioner : Mr.M.Sivavarthan

For Respondent : Mr.K.Premkumar

ORDER

The present Transfer Civil Miscellaneous Petition has been filed by the wife.



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2. The marriage between the petitioner and the respondent was solemnized on 30.10.2020. Subsequently, the parties set up their matrimonial home at Coimbatore.

3. From the wedlock, a girl child was born on 30.11.2021 and she is now under the custody of the mother.

4. The husband has initiated proceeding for restitution of conjugal rights in O.P.No.890 of 2022 before the Family Court at Coimbatore. This petition was withdrawn and he presented a fresh petition in O.P.No.1836 of 2022 seeking divorce on the grounds of cruelty.

5. On issuance of summons, the petitioner/wife appeared before the Court.

6. After having received the notice in the said proceeding, she initiated the proceeding in O.P.No.33 of 2023 on the file of the Sub Court at Palani for the purpose of restitution of conjugal rights.



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7. As she is residing at Palani and stating that she is unable to travel with her minor daughter from Palani to Coimbatore, she has moved this transfer petition.

8. On service of summons, the respondent/husband has entered appearance through a counsel and has filed a detailed counter.

9. He would state that it is a false averment made by the petitioner/wife that she is the resident of Palani and she is traveling from Palani to Coimbatore. He would specifically aver in Paragraph No.16 that the petitioner/wife is working as an accountant with M/s.Cheran Group of Companies, Cheran Towers, Coimbatore Town from August 2023 onwards.

10. He would also state that the petitioner/wife was originally residing at U.S.Arthi Hostel, R.S.Puram, Coimbatore and she is currently residing at M/s.Karuna Ladies Hostel at Ramanathapuram, Coimbatore Town.



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11. For the specific averment made in the counter affidavit, no reply has been tendered by the wife. From this Counter, I am able to perceive that the petitioner/wife is now currently residing at Coimbatore and eking out her living. Therefore the primary ground that she is unable to travel from Palani to Coimbatore is non-existent.

12. Apart from this fact, certain allegations have been made by the respondent/husband that the petitioner and her parents had visited his house in Coimbatore and damaged the properties thereof. He would state that he also has audio recordings to substantiate his pleadings. He fears for his life, in case, he is made to travel to Palani.

13. I am not rendering any finding with respect to the alleged incident and the documents that have been produced before me by Mr.K.Premkumar, appearing on behalf of the respondent/husband, because the same is the subject matter of proceeding before the Judicial Magistrate Court No.I at Coimbatore in C.C.No.1321 of 2023.



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14. Mr.K.Premkumar would also submit that the P.W.1 was examined in chief and the matter is now posted for cross examination. In other words, the trial has commenced in O.P.No.1836 of 2022.

15. As the trial has already commenced, I am not inclined to transfer the proceedings. Furthermore, the petitioner/wife having taken up an employment at Coimbatore, she will not have any difficulty to attend the Court hearings thereof.

16. I feel that if a direction is given for an expeditious disposal of the case, it will serve the ends of justice. Furthermore, as there should not be a conflict of judgments between the two Courts, this Transfer Civil Miscellaneous Petition is disposed of on the following terms :

(1) the proceeding in O.P.No.33 of 2023 initiated by the wife for restitution of conjugal rights pending on the file of the Sub Court at Palani is withdrawn and it shall stand transferred to the file of the Additional Family Court at Coimbatore to be heard and disposed of along with O.P.No.1836 of 2022.



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(2) As the trial has already commenced, the learned Additional Family Judge at Coimbatore is requested to dispose of the matter on or before 31.01.2025 and report the compliance for the same to this Court.

(3) The learned Judge need not hasten the proceedings and he is requested to give sufficient opportunity to the petitioner as well as the respondent and attempt to dispose of the proceedings within the time frame granted by this Court.

(4) A period of six months is granted not only to expedite the proceedings but also keeping in mind the requirements of the litigation, both sides should be afforded reasonable opportunities.

17. Mr.M.Sivavarthanan would plead that the presence of the petitioner/wife may be dispensed with for all hearings other than essential hearings. His request seems reasonable. Therefore, the learned Additional Family Judge at Coimbatore is requested not to insist on the presence of the wife for every hearing, but she shall be directed to be present only for such hearings where her presence is indispensable. On the other hearings, she may be represented through a counsel.



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WEB COPY 18. Accordingly, the Transfer Civil Miscellaneous Petition stands disposed of. No costs. The connected Civil Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

1.The learned Additional Family Judge,
Coimbatore

2.The Sub Court,
Palani

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and

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