



Tr.C.M.P.No.1324 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr.C.M.P.No.1324 of 2022

and

C.M.P.No.22360 of 2022

Anitha

... Petitioner

Vs

A.Radhakrisnanan

... Respondent

PRAYER:- Transfer Civil Miscellaneous Petition has been filed under Section 24 of Civil Procedure Code to transfer the F.C.O.P.No.2401 of 2022 on the file of the learned Judge at Family Court at Chengalpattu in Kancheepuram District to the learned Sub Court at Walajapet in Vellore District and pass such or other suitable orders.

For Petitioner : Mr.S.Arun Kumar

For Respondent : Notice ordered to lower Court
counsel on 26.02.2024

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in F.C.O.P.no.2401 of 2022 on the file of the

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learned Judge at Family Court at Chengalpattu in Kancheepuram District to the learned Sub Court at Walajapet in Vellore District in the interest of justice.

2. On perusal of the case record, it appears that on 23.12.2022 notice was ordered to the respondents. The learned counsel for the petitioner submit that as notice to the respondent is unserved, this Court by order dated 26.02.2024 directed him to take out notice to the respondent's counsel appearing in the lower Court. Accordingly, notice was served on the respondent and a proof of memo was filed to that effect.

3. The petitioner and respondent are wife and husband. The marriage between the petitioner and respondent was solemnized on 10.11.2019 at Sri Vijalakshmi Thirumana Mandapam, Kaveripakkam, as per Hindu rites and customs. They were blessed with a child on 09.09.2020. Thereafter, due to some disputes arose between them and

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the petitioner has given a domestic violence and dowry harassment complaint to the concerned Police in C.S.R.No426 of 2020 dated 19.10.2020. Subsequently, the respondent has filed a petition in F.C.O.P.No.2401 of 2022 on the file of the Family Court, Chengalpet for divorce. The petitioner has filed a petition in M.C.No.4 of 2022 on the file of the Judicial Magistrate-I at Walajapet for maintenance. The petitioner also filed a domestic violence complaint against the respondent in D.V.C.No.4 of 2022 before the Judicial Magistrate-I at Walajapet and the same is pending.

4. It is the contention of the learned counsel for the petitioner that the petitioner is residing at Walajapet along with her aged parents and her two years old child. She has been working from home. It is very difficult for her to travel more than 110 Kms for each and every hearing to appear before the Family Court, Chengalpet carrying her two years old child. As such she sought to transfer F.C.O.P.No.2401 of 2022 from the file of the Family Court, Chengalpet to Judicial

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Magistrat Court, Walajapet to be heard along with M.C.No.4 of 2022.

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5. In ***Rajani Kishor Pardeshi v Kishor Babulal Pardeshi***,¹ the Hon'ble Apex Court held that while going into the merits of a transfer application, the Court are required to give more weight and consideration to the convenience of the female litigants, and the Courts should desist from putting female litigants under undue hardships. Therefore, the convenience of the wife is to be preferred over the convenience of the husband.

6. Considering the facts and circumstances of the case and the petitioner is being a lady, definitely she has to face difficulties to travel from Walajapet, Vellore to Chengalpet to attend the case filed by the respondent. In our considered view, it is appropriate to transfer the F.C.O.P.No.2401 of 2022 on the file of the learned Judge at Family Court at Chengalpattu in Kancheepuram District to the learned Sub

¹ 2005(12)SCC237



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Court at Walajapet in Vellore District in the interest of justice.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the F.C.O.P.No.2401 of 2022 pending on the file of Family Court, Chengalpattu, is hereby withdrawn and transferred to the Sub Court, Walajapet in Vellore to try along with the M.C.No.47 of 2022. The Family Court, Chengalpet shall transmit the entire record in F.C.O.P.No.2401 of 2022 pending on his file to the Principal District Court, Vellore, forthwith, by duly indexed.

8. Consequently, connected miscellaneous petition is closed.

9. There shall be no order as to costs.

06.06.2024

gba

Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

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- 1.The Family Court, Chengalpattu.
2. The Sub Court at Walajapet.

BATTU DEVANAND,J.

gba

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