



Tr.C.M.P.No.1316 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**Tr.C.M.P.No.1316 of 2022
and C.M.P.No.22268 of 2022**

M.Chitra

..Petitioner

Vs.

T.Ganesh Kumar

..Respondent

Prayer: Petition filed under Section 24(2) of the Code of Civil Procedure to withdraw the divorce petition in HMOP.No.74 of 2020 pending before the Learned Subordinate Judge, Tirupattur and to transfer the same before the Family Court, Krishnagiri.

For Petitioner : Mr.C.Samivel

For Respondent : No appearance



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ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the divorce petition in HMOP.No.74 of 2020 pending before the Learned Subordinate Judge, Tirupattur and to transfer the same before the Family Court, Krishnagiri.

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 solemnized on 02.11.2014 as per Hindu rites and customs at M.V.S.Thirumana Mandapam at Tirupattur. Out of the wed lock, two male child viz., Subikshan and Praveen Kumar were born and they are aged about 6 years and 3 years respectively. Due to difference of opinion, the respondent started suspecting the petitioner that she had illicit relationship. Later, the respondent started ill~treating the petitioner and behaved arrogantly. In these circumstances, the respondent filed H.M.O.P.No.74 of 2020 on the file of the Learned Subordinate Judge, Tirupattur, for divorce.

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3. According to the petitioner, the distance between Krishnagiri and Tirupattur is about 100 kilometers and hence, it is very difficult for her to go to Tirupattur to attend the proceedings in H.M.O.P.No 74 of 2020 along with her minor sons who are aged about 6 years and 3 years. In the H.M.O.P pending before the Learned Subordinate Judge, Tirupattur, the presence of spouse is 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. 74 of 2020 from the file of the Learned Subordinate Judge, Tirupattur, to the file of the Family Court, Krishnagiri.

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



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petitioner finds it difficult to travel nearly 100 kilometers from Krishnagiri to Tirupattur to attend the case in H.M.O.P.No.74 of 2020, which will affect both the education and mental health of her minor sons, 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. Kumar Sanjay and another], and to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts, H.M.O.P.No.74 of 2020 is ordered to be withdrawn from the file of the Learned Subordinate Judge, Tirupattur and transferred to the file of the Family Court, Krishnagiri. The Learned Subordinate Judge, Tirupattur, is directed to transmit all the records pertaining to H.M.O.P.No.74 of 2020 to the file of the Family Court, Krishnagiri, within a period of two weeks from the date of receipt of a copy of this

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order.

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

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Index : Yes / No

Speaking Order : Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

msv

To

1. The Subordinate Judge, Tirupattur
2. The Judge, Family Court, Krishnagiri.

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J.NISHA BANU,J.

msv

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