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Tr.CMP.No.1107 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.No.1107 of 2023

and

C.M.P.No.26574 of 2023

T.Suvalakshmi

.. Petitioner

Vs.

K.Selvam

.. Respondent

Prayer : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in H.M.O.P.No.4590 of 2023 pending on the file of the I Additional Family Court at Chennai and transfer the same to the file of the Sub Court at Gingee.

For Petitioner : Ms.G.S.Dhanalakshmi
for Mr.S.T.Raja

For Respondent : Mr.R.Thanjan

ORDER

The present Transfer Civil Miscellaneous Petition is at the instance of
the wife.



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2. The petitioner and the respondent solemnized their marriage on 08.09.2022. Thereafter, they set up their matrimonial home at Chennai.

3. Due to disputes and differences, the petitioner/wife pleads that she was chased away from the matrimonial home, and was made to go and stay with her parents residing in Gingee. She would state that her parents are not well off and are not in a position to take care of her financial expenses. While such being the case, she pleads that she received the summons from the I Additional Family Court at Chennai stating that the husband has moved an application for divorce in H.M.O.P.No.4590 of 2023. She also states that the distance between Gingee and Chennai is about 200 Kms and hence, she seeks transfer of proceeding from the file of the Family Court at Chennai to the file of the Sub Court at Gingee.

4. Notice was ordered in the transfer petition by this Court on 12.12.2023. Summons were served on the respondent and Mr.R.Thanjan entered appearance on behalf of the respondent.



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5. Mr.R.Thanjan would submit that this transfer petition should not be entertained because the matrimonial home was set up at Chennai and the Courts in Chennai have the jurisdiction to entertain the petition. He would further state that the petitioner's family is a powerful family in Gingee and there is a possibility that when the respondent goes to attend the hearings at Gingee, he might be assaulted.

6. I have carefully considered the arguments on either side and I have gone through the affidavit filed in support of this petition.

7. I noticed that the petitioner/wife is aged about 21 years. Hardly within one year of marriage, the petition has been filed for divorce in H.M.O.P.No.4590 of 2023. In matters relating to transfer of matrimonial proceedings, the Parliament had declared that priority must be given to the convenience of the wife under the Hindu Marriage Act.

8. By transferring the proceeding, the husband will no doubt be put to some prejudice. But if it is transferred to the Sub Court as the present



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petition pleads, he can always engage a counsel and contest the proceedings. Therefore, the presence of the respondent for all hearings, which would be an essential facet in the case of the Family Court does not exist in the case of the Sub Court. Further, the Sub Court is always empowered to pass orders granting protection to any person who is appearing before it.

9. Taking the overall circumstances into consideration and the fact that the petitioner is pleading financial as well as the physical inability to travel from Gingee to Chennai, I am inclined to allow this transfer petition.

10. Hence, the proceedings in H.M.O.P.No.4590 of 2023 pending on the file of the I Additional Family Court at Chennai is withdrawn and it shall stand transferred to the file of the Sub Court at Gingee.

11. The learned Subordinate Judge at Gingee is requested to consider any plea for protection that might be filed by the respondent, in the unlikely event of him being assaulted in Court.



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WEB COPY 12. Accordingly, the Transfer Civil Miscellaneous Petition stands allowed. No costs. The connected Civil Miscellaneous Petition is closed.

20.06.2024

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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 I Additional Family Court,
Chennai

2.The Sub Court,
Gingee

Tr.CMP.No.1107 of 2023
and
C.M.P.No.26574 of 2023

20.06.2024