



Tr.C.M.P.No.1345 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Tr.C.M.P.No.1345 of 2022

V.Jeyalusia alias Jeyavarshini

...Petitioner

Vs

Dr.K.R.Karthikeyan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.17/2022 pending on the file of the Principal Sub Court, Thittakudi to be transferred the same to the V Additional Family Court, Chennai.

For Petitioner : Mr.R.Praburam

For Respondent : Mr.K.R.Pughazhendhi

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.72 of 2020 from the file of the Sub Court, Poonamallee and transfer the same to the file of the V Additional Family Court, Chennai.

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2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 22.01.2018 as per Hindu rites and customs at S.M.K.S. Marriage Hall, Anna Nagar, Pattiveeranpatti, Dindigul District. In the wed lock, one female child viz., K.Supraja was born and she was aged about 5 years. Later, the respondent has started ill-treating the petitioner, behaved arrogantly and was not taking care of her. Due to difference of opinion between them, the petitioner left the company of the respondent and residing with her parents in Chennai. The respondent filed H.M.O.P.No.72 of 2020 on the file of the Sub Court, Poonamallee, for divorce. The petitioner has also filed a petition for Maintenance before the V Additional Family Court at Chennai vide M.C.No.106/2021.

3.According to the petitioner, the distance between Poonamallee and Chennai is about 30 kilometers and hence, it is very difficult for her to go to Poonamallee to attend the proceedings in H.M.O.P.No.72 of 2020 along

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with her minor daughter who is aged about 5 years. In the H.M.O.P pending before the Sub Court, Poonamallee, 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.72 of 2020 from the file of the Sub Court, Poonamallee, to the file of the V Additional Family Court, Chennai, where the Maintenance petition is pending.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5. The learned counsel for the respondent submitted that the allegation raised by the petitioner are not true and prayed this Court to dismiss the Transfer Civil Miscellaneous Petition.

6.The contention of the learned counsel for the petitioner that the petitioner finds it difficult to travel nearly 30 kilometers from Chennai to Poonamallee to attend the case in H.M.O.P.No.72 of 2020, which will affect both the education and mental health of her minor daughter, has



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considerable force.

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7. 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.72 of 2020 is ordered to be withdrawn from the file of the Sub Court, Poonamallee and transferred to the file of the V Additional Family Court, Chennai. The learned Judge, Sub Court, Poonamallee, is directed to transmit all the records pertaining to H.M.O.P.No.72 of 2020 to the file of the V Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered.

No costs.

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To

1.The Principal Sub Court, Thittakudi,

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2.The V Additional Family Court, Chennai.

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