



WEB COPY



Tr.CMP.No.1153 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.No.1153 of 2023

and

C.M.P.No.27726 of 2023

B.Shamala

.. Petitioner

Vs.

P.Brito Sagayaraj

.. Respondent

Prayer : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in I.D.O.P.No.80 of 2023 on the file of the Family Court at Cuddalore and transfer the same to the file of the Sub Court at Alandur.

For Petitioner : Mr.R.Asokan

For Respondent : Mr.P.Suresh Babu

ORDER

The petitioner and the respondent solemnized their marriage, as per Christian Rites and Customs, on 22.01.2018. From the wedlock, two children were born. Now, the children are under the custody of the mother.



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2. In the mean time, due to disputes and differences, the husband has initiated the proceeding in I.D.O.P.No.80 of 2023 seeking divorce before the Family Court at Cuddalore. The wife has expressed her willingness to rejoin her husband but she would plead that the husband is not interested to take her back. She finds it difficult to travel to Cuddalore from Perungudi, where she is residing, for the purpose of contesting the litigation. She would state that her father is a watchman and he is supporting her financially to the best extent possible. She pleads physical inability to travel from Perungudi to Cuddalore as well as financial inability on account of the fact that she is dependant on her father.

3. Notice was ordered in the application on 12.12.2023. Notice was served on the respondent and he has entered appearance through a counsel.

4. Though the prayer seeks transfer of the proceeding from the file of the Family Court at Cuddalore to the file of the Sub Court at Alandur, I have my own doubts since the Sub Court does not have jurisdiction to entertain the petition as sought by the husband.



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5. Taking into consideration the overall circumstances including the fact that there are two children from the marriage, who are about 5 and 2 years old as of today, I am inclined to allow this transfer petition. Hence, the proceeding in I.D.O.P.No.80 of 2023 pending on the file of the Family Court at Cuddalore is withdrawn and it shall stand transferred to the file of the Family Court at Chennai.

6. Chennai being well connected with Cuddalore, the husband might not have any difficulty in traveling such distance. Since the respondent/husband is working as a hostel warden, it might not be possible for him to appear for every hearing before the Court. The learned Family Judge at Chennai is requested not to insist on the presence of the husband for every hearing, but he shall be directed to be present only for such hearings where his presence is indispensable. On the other hearings, he may be represented through a counsel.

7. Accordingly, the Transfer Civil Miscellaneous Petition stands



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allowed. No costs. The connected Civil Miscellaneous Petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation: Yes/No

V. LAKSHMINARAYANAN, J.



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To

1.The Family Court,
Cuddalore

2.The Family Court,
Chennai

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