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TR.CMP.No.1235 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

TR.CMP.No.1235 of 2023
and CMP.No.29565 of 2023

B.Gayathri

... Petitioner

Vs

1.C.Gopalakrishnan
2.Kalaiselvan

... Respondents

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying to withdraw and transfer H.M.O.P.No.58 of 2021 on the file of Subordinate Court at Thiruvavarur to Family Court, Nagapattinam.

[Prayer amended vide order dated 23.01.2024 in CMP.No.1673 of 2024 in Tr.CMP.No.1235 of 2023]

For Petitioner : Ms.E.Gomathi

For Respondents : No Appearance



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ORDER

The petitioner-wife has presented this petition to withdraw the petition filed by the first respondent-husband in H.M.O.P.No.58 of 2021 before the Subordinate Court at Thiruvarur and transfer it to Family Court, Nagapattinam.

2. The petitioner is the wife. She married the first respondent on 06.03.2011. From the wedlock, two children were born who are now aged about 12 years and 8 years respectively. The children are in the custody of the wife. On account of the fact that the petitioner-wife felt that her husband was not treating her properly, she left the matrimonial home and was living with her parents at Nagapattinam.

3. The husband had initiated H.M.O.P.No.58/2021 on the file of Subordinate Court at Thiruvarur. The wife had initiated Domestic Violence complaint in D.V.C.No.40 of 2021 before the learned Judicial Magistrate, Additional Mahila Court at Nagapattinam, which has since been transferred to the file of learned District Munsif cum Judicial Magistrate Court at



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Kilvelur, and re-numbered as D.V.C.No.11 of 2022. She pleads that she is unemployed, and that she and her children are living at the expense of her parents. She pleads that she finds it difficult to maintain herself, her children and her parents too, who are aged persons. She further pleads that since her parents are aged persons, they are not in a position to take care of her children in her absence, and hence, her children used to accompany her during her travel to Thiruvavur to attend the Court hearings. This apart, she also finds it difficult to meet out the transportation expenses incurred during her travel from Nagapattinam to Thiruvavur to attend the court hearings. Hence this transfer petition.

4. Notice was ordered in the transfer petition on 03.04.2024. The respondents 1 and 2 though were served with notice privately, they neither represented themselves through a counsel nor entered appearance in the Court to oppose the petition.

5. The facts narrated above would show that the petitioner and her children are staying at Agarakambanur village which is in the outskirts of Nagapattinam. She necessarily would have to travel a considerable distance



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from her village to Thiruvarur for the purpose of attending the proceedings before the learned Subordinate Judge. Pleading financial and physical inability, the petitioner-wife is before this Court seeking transfer.

6. Taking into consideration the interest of the wife and the difficulties expressed by her, I am inclined to consider the transfer. The H.M.O.P.No.58 of 2021, pending on the file of Subordinate Court, Thiruvarur is withdrawn from its file and transferred to Family Court, Nagapattinam.

7. With the above directions, this transfer petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2024

Index: Yes/No
Neutral Citation : Yes / No
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V.LAKSHMINARAYANAN,J.

ds

To:

- 1.The Subordinate Court
Thiruvarur.
- 2.The Family Court
Nagapattinam.
- 3.The Section Officer
VR Section, High Court, Madras.

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