



TR.CMP.No.1162 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

TR.CMP.No.1162 of 2023
and CMP.Nos.27841 & 27842 of 2023

R.Suganya

... Petitioner

Vs

S.Udhayaraj

... Respondent

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24(1)(b) of CPC praying to withdraw H.M.O.P.No.4606 of 2023 pending before the III Additional Family Court, Chennai and transfer the same to the file of Family Court at Pondicherry.

For Petitioner : Mr.E.V.Chandru

For Respondent : Mrs.R.Thenmozhi

ORDER

The petitioner-wife has presented this petition to withdraw H.M.O.P.No.4606 of 2023 pending on the file of III Additional Family Court,



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Chennai and to transfer the same to the file of Family Court at Pondicherry.

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2. The petitioner and the respondent solemnized their wedding on 16.11.2017 at Puducherry. From the wedlock, a male child was born on 17.04.2020. The husband is said to be working as Vice President in Barclays Bank, Chennai. Due to disputes and differences that arouse out of matrimony, the husband had initiated H.M.O.P.No.4606 of 2023 on the file of III Additional Family Court at Chennai. To complete the narration, the wife also initiated proceedings under the Domestic Violence Act in D.V.C. No.145/2023 before the Judicial Magistrate III, Puducherry. She thereafter left her matrimonial home and started living with her age old parents at Pondicherry.

3. The petitioner states that her child Krithvik Athithya who is today aged about 4^{1/2} years is suffering from acute respiratory issues. The petitioner pleads that one way travel distance from Pondicherry to Chennai is about 160 kms. and she would have to travel nearly about 320 kms. if she has to attend the proceedings at Chennai and return to Pondicherry. She also pleads that she is unable to leave her child all alone in Puducherry, as her aged old



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parents also find it difficult to maintain her child in her absence. She further pleads that she is having no source of income to maintain herself and her child. Therefore, the financial difficulty, the physical inability and illness of her child are the grounds for the petitioner seeking transfer.

4. Mr. E.V.Chandru, learned counsel appearing for the petitioner has produced medical records to show that the child is under treatment and he is taking nebulisation three times a day.

5. Mrs.R.Thenmozhi, learned counsel appearing for the respondent would submit that the petitioner and her brother had threatened not only the respondent with dire consequences but had barged into the office of the respondent's brother who is a lawyer by profession and had abused him. Therefore, apprehending that the life of the respondent and his brother is in danger, she would state that if the proceedings are transferred to any Court other than Puducherry, it would serve the ends of justice.

6. Heard both sides. The relationship between the parties is not disputed. If the petitioner was to travel to Chennai leaving the child at



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Pondicherry, perhaps that by itself will cause distress to the child who is suffering from respiratory illness. Though the distance between Pondicherry and Chennai is not considerable, it would be difficult for the petitioner to travel this distance to attend the hearing and get back in time to her home town.

7. Taking into consideration the inconvenience pleaded by the wife and the medical records produced before the Court to substantiate the fact that a 4 ^{1/2} year old child is suffering from respiratory illness and that he requires constant attention, I am inclined to accept this transfer petition. Accordingly, HMOP.No.4606 of 2023 on the file of III Additional Family Court at Chennai is withdrawn and is transferred to the file of Family Court at Puducherry.

8. The learned Judge of the Family Court, Puducherry is requested to post the divorce proceedings in as much as would be conveniently possible on the same date the proceedings in D.V.C. No.145/2023 is posted before the learned Judicial Magistrate III, Puducherry. This will reduce the burden of the respondent-husband to travel to Puducherry for every hearing. Apart from that, the Family Court, Puducherry is advised not to direct the



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respondent-husband to appear on every hearing, and for non-essential and procedural hearing, he may be represented through a counsel. He should be called upon to appear only when his appearance is indispensable and essential. I am sure that the Judge of Family Court, Puducherry will consider granting sufficient protection to the respondent in case any untoward incident takes place.

9. With the above directions, this petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

11.06.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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To:

1. The Judge, Family Court, Pondicherry.
2. The Judge, III Additional Family Court, Chennai.
3. The Section Officer, VR Section, High Court, Madras.



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V.LAKSHMINARAYANAN,J.

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