



WEB COPY



Tr.CMP No.1185 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

TR.CMP No.1185 of 2023
and C.M.P.No.28510 of 2023

Elavarasi Petitioner

-Vs-

A.Jayaprakash Respondent

Prayer : Transfer Civil Miscellaneous Petition under Section 24 of C.P.C., to withdraw HMOP No.126 of 2019 on the file of the Sub Court, Cheyyar and transfer the same to the Family Court at Dharmapuri to be enquired and disposed of and render justice.

For Petitioner : Mr.P.Mani

For Respondent : Mr.R.Sankara Kutralingam

ORDER

This is the second Transfer Petition filed before this Court. The petitioner moved Tr.C.M.P.No.47 of 2020 and the same came to be dismissed by order dated 28.01.2020 stating that the proceedings in H.M.O.P.No.126 of 2019 on the file of the Sub Court, Cheyyar be disposed of within a time limit.



Tr.CMP No.1185 of 2020

WEB COPY

2. Mr.P.Mani appearing on behalf of the petitioner submits that the proceeding has not been disposed of despite the specific direction given by this Court. Mr.R.Sankara Kutralingam appearing on behalf of the respondent would concur with the said submission and would state that the matter as on today is at the stage of trial.

3. The relationship between the parties is not in dispute and also the fact that from the wedlock a child was born. When the transfer petition was moved before this Court in Tr.C.M.P.No.47 of 2020, the child was only 1½ years old and taking into consideration the fact that the presence of the petitioner was not necessary before the Sub Court at Cheyyar, the said transfer petition was dismissed. However the changed circumstance which Mr.P.Mani would draw my attention as found at Para 6 of the affidavit is that, after the dismissal of the transfer petition, it has come to light that the child is suffering from Autism Spectrum disorder. Therefore, it requires intensive speech therapy and treatment. The affidavit proceeds to state that the child is receiving treatment at Dharmapuri.

4. Taking into consideration the changed circumstance viz., the illness with which the child has now been afflicted, I am inclined to consider the transfer petition. The proceedings in H.M.O.P.No.126 of 2019 on the file of the Sub-Court at Cheyyar is withdrawn and transferred to the Family Court at Dharmapuri. The Family Court at



Tr.CMP No.1185 of 2023

Dharmapuri need not restart the proceedings, but can proceed from the stage where it stands transferred from the Sub-Court, Cheyyar. The presence of the husband need not be insisted for every hearing. He can be present for non-essential hearings through counsel. He shall however be present in person for hearings, where his presence is indispensable.

5. With the above directions, the Tr.C.M.P. stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

1.The Subordinate Court, Cheyyar.

2.The Family Court, Dharmapuri.



WEB COPY



Tr.CMP No.1185 of 2023

V. LAKSHMINARAYANAN, J.

KST

TR.CMP No.1185 of 2023

03.06.2024