



Tr.C.M.P.No.1340 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.1340 of 2024
& C.M.P.No.28946 of 2024

Moodurai Poyyamozhi

.. Petitioner

Vs

M.A.Mumtaj Surya

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw H.M.O.P.No.220 of 2022 on the file of the Subordinate Court at Tirupattur and to transfer to the file of the Principal Family Court at Chennai.

For Petitioner : Mr.R.Srinivasan

For Respondent : Mrs.M.A.Mumtaj Surya,
Party-in-person

ORDER

I heard Mr.R.Srinivasan for the petitioner and Mrs.M.A.Mumtaj



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Surya for the respondent/Party-in-person.

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2. This Transfer Petition has been filed by the husband. He seeks for withdrawal of H.M.O.P.No.220 of 2022 on the file of the learned Subordinate Judge at Tirupattur and to transfer the same to the file of the Principal Family Court at Chennai. When the transfer petition was taken up for hearing, the respondent/party-in-person caused an appearance. Therefore, it was taken up for final disposal. The case of the transfer petitioner is that the respondent is also residing in Chennai and that he is facing difficulty in travelling to Tirupattur to contest the proceedings. He adds that he is working as an Assistant Director in the cinema industry and is not in a position to take off from his employment and concentrate on the litigation. In addition, he points out that the respondent and her family members are members of the Bar in Tirupattur and therefore, he faces a threat to his life.

3.The party-in-person states that she occasionally practices before this Court, but her major practice is at Tirupattur in Vellore District. She points out that the child born from the wedlock is studying in Tirupattur. She states that she comes over to Chennai, whenever she has a matter, otherwise she is concentrating only in the Courts at Tirupattur.



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4.I have carefully considered the pleadings of the petitioner and the respondent.

5.It is not in dispute that the respondent is suffering from a rare genetic disorder by name “Thalassemia”. On account of this condition, she constantly requires blood transfusion. If I were to transfer the case to Chennai, the respondent would be put to serious hardship. Furthermore, there is a child, who requires the assistance of the respondent. While it can be argued that the child can be taken care of by his grand parents and aunt, there is no substitute for the mother's love and affection.

6.It would be difficult for the respondent to travel to Chennai to appear in person before the Family Court. Whereas, the petitioner/husband does not face this issue, since it is before the Subordinate Court at Tirupattur. Before a Subordinate Court, the party can always engage a counsel and his presence will be essential only at the time of evidence.

7.Above all, in terms of Section 19(iii)(a) of the Hindu Marriage



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Act, a petition can be filed before the Court within whose jurisdiction the wife is residing. This is an indication from the Parliament that preference should be given only to the convenience of the wife.

8.Taking into consideration all the facts, I am of the view that the fear that is expressed by the petitioner for his life can be allayed by giving a direction to the learned Subordinate Judge to receive a complaint, in case such incident arises, and if he finds truth in the said complaint, protection to be ordered to the transfer petitioner. Therefore, I am not inclined to entertain the transfer petition.

9.With the above observations, the transfer civil miscellaneous petition is dismissed. The learned Subordinate Judge at Tirupattur is requested to expedite H.M.O.P.No.220 of 2022 and dispose of the same within a period of nine months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

17.12.2024
(1/2)

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN,J.

Kj

To

The learned Subordinate Judge at Tirupattur.

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& C.M.P.No.28946 of 2024

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