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Tr.CMP No.12 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

TR.CMP No.12 of 2024
and C.M.P.No.327 of 2024

Vahitha Banu

.... Petitioner

-Vs-

Mahaboob Hussain

.... Respondent

Prayer : Transfer Civil Miscellaneous Petition under Section 24 of C.P.C., to withdraw O.S.No.11 of 2023 on the file of the District Family Court, Chengalpattu and to transfer the same to the District Family Court at Cuddalore.

For Petitioner : Mr.M.A.Abdul Razak

For Respondent : Ms.Shakthipriya
for Mr.Mohd.Asif

ORDER

Petitioner is the wife. The marriage between the petitioner and the respondent was solemnized as per Islamic rites and customs on 23.05.2010 at Manjakuppam in Cuddalore. From the wedlock two children by name Mohd.Shafik and Mohd.Sharik were born. Due to disputes and differences, the parties separated.



Tr.CMP No.12 of 2023.

WEB COPY

2. The respondent would state that he had pronounced Talaq on three separate occasions and therefore the marriage stood dissolved. He would plead that the first Talaq was given on 16.11.2022, the second on 18.12.2022 and the third on 31.01.2023.

3. Denying this aspect, the transfer petitioner had also issued a reply notice on 07.02.2023. Hence the suit was filed before the Family Court at Chengalpattu for a declaration that the marriage stood dissolved. The suit was taken on file as O.S.No.11 of 2023 and summons were issued to the defendant.

4. The defendant pleading that she is living with her parents in Cuddalore and is not in a position to traverse the distance of 250 Kms to and fro between Cuddalore and Chengalpattu and hence she has moved this transfer petition.

5. Notice was ordered in this application to the respondent and Mr.Mohd.Asif had entered appearance.

6. Heard Mr.M.A.Abdul Razak for the petitioner and Ms.R.Shakthipriya for Mr.Mohd.Asif for the respondent.



Tr.CMP No.12 of 2024

7. A reading of Para 9 of the transfer petition affidavit shows that the petitioner is suffering from distressed circumstances as she is entirely dependent upon her parents and she would state that her father is a patient who had undergone bypass surgery and is also suffering from kidney ailment. The children, being of tender age of 10 and 12 years respectively, it might not be possible for the wife to leave the children at Cuddalore and travel to Chengalpattu for the purpose of attending the hearings.

8. Taking into consideration the overall circumstances into consideration, I am of the view that the transfer petition deserves acceptance. Accordingly, O.S.No.11 of 2023 pending on the file of the Family Court at Chengalpattu is withdrawn and transferred to the Family Court at Cuddalore. The Family Court Cuddalore shall not insist on the appearance of the respondent husband for every hearing. He shall be present for all essential hearings and for other non-essential and procedural hearings, he shall be represented by his counsel.

9. The Transfer Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

13.09.2024

Index : Yes/No

Neutral Citation : Yes/No

KST



Tr.CMP No.12 of 2024

V. LAKSHMINARAYANAN, J.
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To

- 1.The District Family Court
Chengalpattu.
- 2.The District Family Court
Cuddalore.

TR.CMP No.12 of 2024

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