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Tr.C.M.P(MD)No.542 of 2023 and Tr.C.M.P.No.240 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.C.M.P(MD)No.542 of 2023 and
C.M.P(MD)No.12146 of 2023
and
Tr.C.M.P.No.240 of 2024 and
C.M.P.No.4890 of 2024

Tr.C.M.P(MD)No.542 of 2023:

Thiruvengadam Rajaiah

... Petitioner

Vs.

Silambarasi

... Respondent

Tr.C.M.P.No.240 of 2024:

Silambarasi

... Petitioner

Vs.

Thiruvengadam Rajaiah

... Respondent

PRAYER in Tr.C.M.P(MD)No.542 of 2023: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the petitions Divorce O.P.No.2528/2023 filed and pending before 4th Family Court Chennai and to transfer to Family Court Pudukottai.



Tr.C.M.P(MD)No.542 of 2023 and Tr.C.M.P.No.240 of 2024

PRAYER in Tr.C.M.P.No.240 of 2024: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw HMOP.No.34 of 2022 on the file of the learned Subordinate Court, Pudukottai and transfer the same to the IV Additional Family Court, Chennai.

Tr.C.M.P(MD)No.542 of 2023:

For Petitioner : Mr.F.X.Eugene
For Respondent : Ms.Chethana

Tr.C.M.P.No.240 of 2024:

For Petitioner : Ms.Chethana
For Respondent : Mr.F.X.Eugene

COMMON ORDER

For clarity, the petitioner in Tr.C.M.P(MD)No.542 of 2023 and the respondent in Tr.C.M.P.No.240 of 2024 is referred to as Husband. Similarly, the petitioner in Tr.C.M.P.No.240 of 2024 and the respondent in Tr.C.M.P(MD)No.542 of 2023 is referred to as Wife.

2.Tr.C.M.P(MD)No.542 of 2023 has been filed by the Husband seeking transfer of the divorce proceedings filed by the Wife in O.P.No.2528 of 2023 from the file of the IV Additional Family Court at Chennai to the file of the Family Court at Pudukottai.



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3.Tr.C.M.P.No.240 of 2024 has been filed by the Wife to transfer the restitution of conjugal rights petition filed by the Husband in H.M.O.P.No.34 of 2022 from the file of the Subordinate Court, Pudukottai to the file of the IV Additional Family Court at Chennai.

4.The learned counsel appearing for the Wife submitted that the marriage between the Husband and Wife solemnized on 12.07.2015 in the Husband's residence at No.4/1106, South Agraharam, Vennavalkudi Post Office, Alangudi Taluk, Pudukottai. Right from the marriage, the relationship between Husband and Wife was stormy and there was demand of dowry and Wife subjected to cruelty and harassment. After she became pregnant, she was not properly taken care by Husband and his family members and she was also forced to get out of the matrimonial home in the year 2017. On 17.06.2018, the Wife was given birth to a male baby and the Husband or his family members never bothered to call upon the Wife to enquire about her health or new born baby.



5.The learned counsel further submitted that now Wife is at the mercy of her mother and she is working in Apollo Hospital at Chennai as psychotherapist. With her little earnings, she is able to sustain herself and also taking care of her son who is now going kindergarten in Chettinad Vidyashram. After separation, Husband never bothered to enquire about the well being of her Wife and son and also provided no assistance either morally or financially. Left with no other option, she filed petition for divorce and permanent alimony. She further submitted that though the restitution of conjugal rights in H.M.O.P.No.34 of 2022 is filed earlier point of time, the Wife not received any summon from the Court. Hence, it is not a counterblast to the petition filed by her Husband. The Wife being a single lady, cannot travel all the way from Chennai to Pudukottai which is nearly around 380 kms leaving his son. Added to it, her mother is a cancer patient and taking regular treatment.

6.She further submitted that Husband appeared in the divorce proceedings in O.P.No.2528 of 2023 and custody petition in O.P.No.2552 of 2023 and filed counter in two interim applications which were filed by



the Wife seeking maintenance and return of articles. From the counter only, the Wife came to knowledge about pendency of restitution of conjugal rights in Pudukottai Court. Hence, she sought for transfer of H.M.O.P.No.34 of 2022 to the file of the IV Additional Family Court at Chennai.

7.The learned counsel appearing for the Husband through virtual mode submitted that marriage between the Husband and Wife solemnized on 12.07.2015 and their matrimonial home was at Pudukottai. After conceived, the Wife had gone to Chennai to her mother's place for delivery. Thereafter, the Wife not informed about delivery of baby and refused to join the matrimonial home at Pudukottai. The Wife is very particular that since Pudukottai is a second tier city, she is not comfortable to live there and she forced her husband to shift residence in Chennai. Since Husband is an Agriculturist having agricultural activities in Pudukottai, he cannot shift his residence to Chennai and he is not well qualified. This caused some matrimonial discord between Husband and Wife. He further submitted that the Wife to pursue her career as Psychotherapist joined Apollo Hospital at



Chennai and refused to join her Husband. On the other hand she made wild allegation against her Husband and filed divorce petition and custody petition. After coming to know about restitution of conjugal rights petition filed by the Husband at Pudukottai Court, as a counter blast she filed divorce petition and custody petition in Chennai. Since the Husband is a Agriculturist and he has got elderly sick parents, she cannot move out of Pudukottai often. Hence, he sought for transfer of O.P.No.2528 of 2023 to the Family Court at Pudukottai.

8.Considering the rival submissions and on perusal of the materials, it is not in dispute that the Wife for delivery came to Chennai in the year 2017, then on she has been staying in Chennai with her mother. After delivery of male child on 17.06.2018, the child is living with his mother and going to Kindergarten of Chettinad Vidyashram. The Wife being a single lady travel all the way from Chennai to Pudukottai to attend the case would be nothing but a harassment and arduous task. Further, she apprehends fear for her safety. It is brought to the notice of this Court about disposal of the guardian O.P.No.2552 of 2023.



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9.In view of the above, this Court withdraws H.M.O.P.No.34 of 2022 from the file of the Subordinate Court, Pudukottai and transfers the same to the file of the IV Additional Family Court at Chennai. The IV Additional Family Court at Chennai to conduct trial in H.M.O.P.No.34 of 2022 along with O.P.No.2528 of 2023 in a comprehensive manner and dispose of both the petitions within a period of four months from the date of receipt of H.M.O.P.No.34 of 2022 from the file of the Subordinate Court, Pudukottai.

10.In the result, Tr.C.M.P(MD)No.542 of 2023 stands dismissed and Tr.C.M.P.No.240 of 2024 stands allowed. Consequently, connected civil miscellaneous petitions are closed. No costs.

16.07.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes

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1.The Subordinate Court,
Pudukottai.

2.The IV Additional Family Court,
Chennai.



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M.NIRMAL KUMAR, J.

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16.07.2024