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Tr.C.M.(MD)No.11 and 86 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Tr.CMP(MD)Nos.11 and 86 of 2024

and

CMP(MD)Nos.214 and 1452 of 2024

(1)Tr.CMP(MD)No.11 of 2024:-

Kaleeshwari @ Vijayalakshmi : Petitioner/Respondent

Vs.

Kumar : Respondent/Petitioner

PRAYER:-Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to withdraw and transfer the petition in HMOP No.560 of 2023 on the file of the Family Court, Theni and transfer the same to the Family Court, Sivagagai.

For Petitioner : Mr.D.Venkatachalam

For Respondent : Mr.M.S.Jeya Karthik

(2)Tr.CMP(MD)No.86 of 2024:-

Kumar : Petitioner/Respondent

Vs.

Vijayalakshmi : Respondent/Petitioner



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PRAYER:-Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to pass an order of transfer, to the withdrawal of OP No.348 of 2023 on the file of the Family Court, Sivagangai and the same may be transferred to the Family Court, Theni so as to try along with HMOP No.560 of 2023 on the file of the Family Court, Theni and to pass such or other orders.

For Petitioner : Mr.M.S.Jeyakarathi

For Respondent : Mr. D.Venkatachalam

COMMON ORDER

The husband filed HMOP No.560 of 2023 before the Family Court, Theni seeking the relief of divorce on the ground of cruelty. Pending that petition, another petition was taken out by the wife in OP No.348 of 2023 before the Family Court, Sivagangai seeking the relief of restitution of conjugal rights. Now both the matters are pending before the respective courts. Both the parties filed petitions seeking transfer of other matters to the Courts at their convenience.

2.When the matter for transfer of matrimonial proceedings, it is the basic and fundamental law that convenience of the wife alone is the basic criteria. Here, the wife filed a petition seeking restitution of conjugal rights before the Family Court, Sivagangai. On



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which date, it was filed is not clear on record, so also, the date of filing of the petition by the husband seeking divorce in HMOP No.560 of 2023 before the Family Court, Theni.

3.Now the husband says that he has to travel more than 200 kms and running a Cement shop in Body and to attend the court proceedings, he has to close the shop and travel such a long distance.

4.Similarly the wife says that she has to travel about 125 kms from her parental home to attend the Court at Theni. Both of them expressing their grievance over the distance of travel.

5.Even though, the learned counsel appearing for the husband is also ready to meet out the expenses of his wife to attend the Court at Theni, as mentioned above, the basic principles must be adopted, unless a specific cause is shown by the husband.

6.In the counter, it has been simply stated by the husband that the father of the wife is now working as DRO, Sivagangai, there is every likelihood of influencing his position. Apart from that, it is also stated that



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the wife family is having men and muscle power in blocking him. Without any basic, acceptable reasons or materials, allegations are made.

7.The employment of the father's wife cannot be a criteria for deciding the issue by the Family Court. So, the contention raised by the husband is rejected and the petition filed by him is liable to be dismissed and accordingly, it is dismissed.

8.In a matrimonial proceedings, the convenience of the wife is a parameter. Considering the two cases pending before two separate courts, it may not be appropriate on the part of the enquiry courts in both matters to proceed without taking into account the finality of other matter, conflict of decision may occur in both the matters.

9.So without going into other aspects, petition filed by the **wife** in Tr.CMP(MD)No.11 of 2014 is **allowed**. The petitioner filed by the **husband** in Tr.CMP(MD)No.86 of 2014 is **dismissed**. Accordingly, H.M.O.P.No.560 of 2023 pending on the file of the Family Court, Theni transferred to the Family Court, Sivaganai. The Family Court, Theni is directed to transmit the case papers to



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the Family Court, Sivagangai within a period of four weeks from the date of receipt of a copy of this order.

After receiving the records, the Family Court, Sivagangai, may assign new number and conduct the trial, after issuing notice to the parties for appearance and dispose the case in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

28/02/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Family Court,
Theni.
- 2.The Family Court,
Sivagangai.



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G.ILANGOVAN, J

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