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Tr.C.M.P(MD)No.146 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.08.2024

Pronounced on : 08.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.146 of 2024

and

C.M.P(MD)No.3109 of 2024

J.Nithya

... Petitioner

Vs.

R.Saravanan

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the F.C.O.P.No.27 of 2024 from the file of the Family Court, Namakkal to any of the competent Court at Dindigul.

For Petitioner : Mr.A.Chandra Kumar

For Respondent : Mr.M.R.S.Prabhu

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the F.C.O.P.No.27 of 2024 pending on the file of the Family Court, Namakkal to any of the competent Court at Dindigul.



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2. The petitioner herein is the wife of the respondent. Their marriage was solemnized on 30.06.2004 as per Hindu Rites and Customs at Namakkal. Due to misunderstanding, they are living separately. Thereafter, the respondent has filed the petition in F.C.O.P.No.27 of 2024 before the Family Court, Namakkal, against the petitioner for dissolution of their marriage.

3. The learned counsel for the petitioner has submitted that the petitioner is residing with her aged parents. Out of wedlock, the petitioner gave birth a son and daughter. The petitioner and her children were driven out by the respondent on 17.07.2020 and now, they are residing at Sithaiyankottai, Dindigul. The petitioner is doing coolie work. Her children are studying in a school at Sithayankottai. The respondent is not maintaining them. The petitioner finds it very difficult to attend the Court at Namakkal. Therefore, the petitioner has filed this present petition seeking transfer of divorce petition.

4. The learned counsel for the respondent objected the petition. He further submitted that because of the torture of the petitioner and the



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activities of the petitioner in scolding him in a public place, the respondent is living separately. The petitioner left him without any intimation. Thereafter, he filed the petition for divorce. To further harass the respondent, the present petition is filed. The respondent is a heart patient and he underwent heart surgery. As the stent was fixed in his heart, he is unable to travel long distances and hence, the case may be transferred to Karur, which is the middle station between Namakkal and Dindigul.

5. Submissions of both sides considered. The respondent and the petitioner are the husband and wife and they were blessed with a son and daughter. Because of misunderstanding, they are living separately and in such circumstances, the respondent filed the petition before the Family Court, Namakkal, for dissolution of marriage. It is well settled proposition of law, whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference. In number of cases, the Hon'ble Supreme Court has reiterated the difficulties faced by the wife while attending the divorce petition filed by the husband and transferred the divorce petition where the wife ordinarily resides.



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Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, I am of the view that the present petition filed by the wife is to be allowed.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in F.C.O.P.No.27 of 2024 pending on the file of the Family Court, Namakkal is withdrawn and the same is transferred to the Family Court, Dindigul for disposal in accordance with law. The learned Judge, Family Court, Namakkal, is directed to transmit the entire records pertaining to the case in F.C.O.P.No.27 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

08.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD



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To

- 1.The Family Court,
Namakkal.
- 2.The Family Court,
Dindigul.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)No.146 of 2024
and
C.M.P(MD)No.3109 of 2024

08.11.2024