



Tr.C.M.P(MD)Nos.291 and 506 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.09.2024

Pronounced on : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)Nos.291 and 506 of 2024

and

C.M.P(MD)Nos.6674 and 11992 of 2024

Tr.C.M.P(MD)No.291 of 2024

V.Ragu

... Petitioner

Vs.

Nithyananthi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the petition in H.M.O.P.No.39 of 2024 on the file of the Subordinate Court, Uthamapalayam, Theni District to Subordinate Court, Tambaram to be tried along with H.M.O.P.N.391 of 2023.

For Petitioner : Mr.S.Titus

For Respondent : Mr.C.Ramesh



Tr.C.M.P(MD)Nos.291 and 506 of 2024

Tr.C.M.P(MD)No.506 of 2024

Nithyananthi

... Petitioner

Vs.

V.Ragu

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.391 of 2023 on the file of the Sub Court, Tambaram and transfer the same to the Sub Court, Uthamapalayam to be tried along with H.M.O.P.No.39 of 2024.

For Petitioner : Mr.C.Ramesh

COMMON ORDER

The Transfer Miscellaneous Petition in Tr.C.M.P(MD)No.291 of 2024 is filed for seeking an order to withdraw H.M.O.P.No.39 of 2024 pending on the file of the Sub Court, Uthamapalayam, Theni District and transfer the same to the Sub Court, Tambaram to be tried along with H.M.O.P.No.391 of 2023.

2.The Transfer Miscellaneous Petition in Tr.C.M.P(MD)No.506 of 2024 is filed seeking for an order to withdraw H.M.O.P.No.391 of 2023 on the file of the Sub Court, Tambaram and transfer the same to the



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Sub Court, Uthamapalayam, Theni District to be tried along with
H.M.O.P.No.39 of 2024.

3. For the sake of convenience, the parties as arrayed in
Tr.C.M.P(MD)No.291 of 2024 is adopted.

4. The petitioner is the husband of the respondent and their marriage was solemnized on 30.08.2018 at Chinnamanoor of Theni District as per Hindu rites and customs. Their marriage is a love marriage. Out of wedlock, they have been blessed with a male child born on 31.01.2020. Due to misunderstanding, they are living separately. The petitioner has filed H.M.O.P.No.391 of 2023 before the Sub Court, Tambaram against the respondent for divorce on the ground of cruelty. The respondent has filed H.M.O.P.No.39 of 2024 before the Sub Court, Uthamapalayam for restitution of conjugal rights. Both the petitions are pending for disposal.

5. The learned counsel for the petitioner has submitted that the respondent became mentally affected and she was given medical treatment. The respondent used to torture and harass the petitioner. The



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petitioner and the respondent have lived at Chitlapaakkam near Tambaram. She left the matrimonial home and has not made efforts to rejoin with the petitioner. The petitioner filed HMOP for divorce, and after receipt of the summons, the respondent filed HMOP before the Sub Court, Uthampalayam as a counter case. The petitioner is working at Chennai and so both cases may be transferred to Madurai.

6. The learned counsel for the respondent objected and contended that the petitioner/husband did not take care of the respondent and her child. The respondent was driven from the matrimonial home. Now she is residing with her parents along with her son, who is studying LKG at Uthamapalayam. Since the petitioner has evaded in maintaining the respondent and without paying any maintenance, she filed D.V.O.P.No.47 of 2023 before the Judicial Magistrate Court, Uthamapalayam and the same is also pending. So, the convenience of the wife may be considered.

7. On hearing both sides and on perusal of the records, it is clear that the marriage between the petitioner and the respondent was solemnized on 30.08.2018 and out of wedlock, they have a son. Due to



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misunderstanding arose in their matrimonial relationship, they are living separately. The respondent is residing along with her son at Uthamapalayam with her parents. Their son is studying LKG at Uthamapalayam. Though H.M.O.P.Nos.391 of 2023 and 39 of 2024 are pending in different Courts, in addition, D.V.O.P.No.47 of 2023 is pending before the Judicial Magistrate Court, Uthamapalayam. The petitioner has to attend the DV case at Uthampalayam. Moreover, his appearance in each and every hearing need not be necessary in HMOP case pending before the Sub Court, as required before the Family Court.

8. It is well settled proposition of law regarding transfer petitions, more specifically in the matters of matrimonial cases the convenience of the wife has to be looked into. The Hon'ble Supreme Court has also 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. In the above facts and circumstances, taking note of the settled position of the convenience of the wife in matrimonial cases, I am of the view that the transfer petition filed by the wife is to be allowed and the transfer petition filed by the husband is to be dismissed.



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9. In the result,

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(i) The Transfer Miscellaneous Petition in Tr.C.M.P.No.291 of 2024 is dismissed.

(ii) The Transfer Miscellaneous Petition in Tr.C.M.P.No.506 of 2024 is allowed. The petition in H.M.O.P.No.391 of 2023 on the file of the Sub Court, Tambaram, is hereby withdrawn and transferred to the file of the Sub Court, Uthamapalayam to be tried along with H.M.O.P.No.39 of 2024 and for disposal in accordance with law. The learned Sub Judge, Tambaaram, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.391 of 2023 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 Petitions are closed.

20.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD



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Tr.C.M.P(MD)Nos.291 and 506 of 2024

To

- 1.The Sub Court,
Tambaram.
- 2.The Sub Court,
Uthamapalayam
- 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)Nos.291 and 506 of 2024
and
C.M.P(MD)Nos.6674 and 11992 of 2024

20.11.2024