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Tr.C.M.P(MD)No.244 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.08.2024

Pronounced on : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.244 of 2024

and

C.M.P(MD)No.5759 of 2024

Archana

... Petitioner

Vs.

Sathiyendran

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.177 of 2023 on the file of the Sub Court, Uthamapalayam and transfer the same to the file of the Family Court, Dindigul.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.D.Saravanan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw H.M.O.P.No.177 of 2023 on the file of the Subordinate Court, Uthamapalayam and transfer the same to the Family Court, Dindigul.



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2. The petitioner is the wife of the respondent and their marriage was solemnized on 18.01.2019. Out of wedlock, they have a female child. Because of ill-treatment and harassment made by the respondent and his family members, the petitioner left the matrimonial home and she is residing with her parents at Dindigul. Thereafter, the respondent has filed the petition in H.M.O.P.No.177 of 2023 before the Sub Court, Uthamapalayam against the petitioner for restitution of conjugal rights.

3. The learned counsel for the petitioner has submitted that the petitioner with her child is now residing at Vilampatti post of Dindigul District. The petitioner is jobless and with maintaining her female child she finds it very difficult to travel to Uthamapalayam. Moreover, whenever the petitioner is appearing before the Sub Court, Uthamapalayam, the respondent used to threaten her to give consent for the case. The petitioner is solely depending on her parents. Therefore, the petitioner has filed this present petition seeking transfer of H.M.O.P.No. 177 of 2023.

4. The learned counsel for the respondent filed a counter and he has no objection to transfer the petition. However, he submitted that



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since the respondent is working in Chennai his appearance may be dispensed with.

5. Submissions of both sides considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the petition for restitution of conjugal rights before the Sub Court, Uthamapalayam. As per the number of decisions of the Hon'ble Supreme Court, 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. On the respondent's side, it is submitted that there is no objection, however, a request was placed that the appearance of the respondent may be dispensed with. On perusal of the certificate produced by the respondent, it reveals that he is only temporarily working as an electrical technician until the end of the project work and there is no mentioning of approximate project period, his request is declined. 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.



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6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.177 of 2023 on the file of the Sub Court, Uthamapalayam, is hereby withdrawn and transferred to the file of the Family Court, Dindigul, for disposal in accordance with law. The learned Sub Judge, Uthamapalayam, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.177 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 Petition is closed.

13.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD

To

1.The Family Court,
Dindigul.

2.The Sub Judge,
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)No.244 of 2024
and
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13.11.2024