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Tr.C.M.P(MD)No.255 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.08.2024

Pronounced on : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.255 of 2024

and

C.M.P(MD)Nos.5917 and 10989 of 2024

Sathya

... Petitioner

Vs.

Haribaskar

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.392 of 2024 on the file of the Family Court, Coimbatore and transfer the same to the file of the Family Court, Thanjavur.

For Petitioner : Mr.A.Arun Prasad

For Respondent : Mr.T.Thirumurugan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw H.M.O.P.No.392 of 2024 on the file of the Family Court, Coimbatore and transfer the same to the Family Court, Thanjavur.



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2. The respondent has filed C.M.P(MD)No.10989 of 2024 to dispense with his personal appearance in H.M.O.P.No.392 of 2024 in case of transfer.

3. The petitioner is the wife of the respondent. The marriage between the petitioner and respondent was solemnized on 29.11.2017 and out of wedlock, they have a female child Yasika, who was born on 22.04.2019. Due to unnecessary mental harassment caused by the respondent and his family members, the petitioner was forced to return back to her parental house. Thereafter, the respondent filed H.M.O.P.No. 392 of 2024 before the Family Court, Coimbatore, for divorce.

4. The learned counsel for the petitioner has submitted that the petitioner is residing along with her parents with her five year old child at Thanjavur. The petitioner finds it difficult to maintain herself as she and her child depend on her parents. So, she finds it very difficult to travel from Thanjavur to Coimbatore. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.



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He further submitted that the respondent is working at Nasik and he has to travel nearly 1400 kms for every hearing and hence, if the respondent's personal appearance is dispensed with from appearance on hearings, the petitioner has no serious objection. By submitting so, the respondent has already filed C.M.P(MD)No.10989 of 2024 to dispense with his personal appearance.

6. 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 divorce before the Family Court, Coimbatore. As per 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. During the course of argument, the respondent's side has agreed for transfer of H.M.O.P.No.392 of 2024 on the file of the Family Court, Coimbatore to the file of the Family Court, Thanjavur with a prayer to dispense with his



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personal appearance. The petitioner's side has no objection to dispense with the appearance. 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.

7. In the result,

(i) This Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.392 of 2024 on the file of the Family Court, Coimbatore, is hereby withdrawn and transferred to the file of the Family Court, Thanjavur, for disposal in accordance with law. The learned Judge, Family Court, Coimbatore is directed to transmit the entire records pertaining to the case in H.M.O.P.No.392 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order.

(ii) The petition in C.M.P(MD)No.10989 of 2024 in Tr.C.M.P (MD)No.255 of 2024 is partly allowed. The personal appearance of the respondent/husband in divorce proceedings filed by the petitioner/wife is dispensed with except on material hearing. The respondent/husband is directed to appear on all the material hearing and on hearing specifically



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directed for appearance by the trial Court. No costs. Consequently, the connected Miscellaneous Petition in C.M.P(MD)No.5917 of 2024 is closed.

11.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Family Court,
Coimbatore.
- 2.The Family Court,
Thanjavur.
- 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.255 of 2024
and
C.M.P(MD)Nos.5917 and 10989 of 2024

11.11.2024