



Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.10.2024

Pronounced on : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

M.Dinesh

... Petitioner in all Tr.CMPs

Vs.

N.Krishnaveni

... Respondent in all Tr.CMPs

COMMON PRAYER: Transfer Civil Miscellaneous Petitions filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.980 of 2023, G.W.O.P.No.177 of 2024 and H.M.O.P.No. 169 of 2024 respectively, pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Erode.

For Petitioner
in all Tr.CMPs : Ms.B.Asha

For Respondent
in all Tr.CMPs : Mr.P.R.Boomee Rajan



Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

COMMON ORDER

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These Transfer Civil Miscellaneous Petitions are filed seeking for an order to withdraw the H.M.O.P.No.980 of 2023, G.W.O.P.No.177 of 2024 and H.M.O.P.No.169 of 2024 on the file of the Family Court, Madurai and to transfer the same to the file of the Family Court, Erode.

2. The facts in brief:

The petitioner is the husband of the respondent. The marriage between the petitioner and the respondent was solemnized on 06.06.2019 as per Hindu rites and customs. Out of wedlock, they were blessed with a female child named Kavisri, who was born on 04.08.2020. Due to misunderstandings arose between them, they are now living separately. The respondent filed H.M.O.P.No.980 of 2023 before the Family Court, Madurai, for divorce. The petitioner has filed the petitions in G.W.O.P. No.177 of 2024 for custody of his child and H.M.O.P.No.169 of 2024, for restitution of conjugal rights before the same Family Court, Madurai. Now, the petitioner/husband has filed these petitions seeking transfer.

3. The learned counsel for the petitioner has submitted that the petitioner is an intellectual disability person, which was disclosed to the



Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

respondent even prior to marriage. He was examined by the competent medical officer and his disability was assessed at 60%. He could not make any decisions or travel without any assistance. The petitioner finds it difficult to travel 200 kms to attend the Court at Madurai. The petitioner is attending the Court at Madurai with the assistance of his parents, who are also aged. The respondent is working as a teacher, so she can able to travel to Erode. The petitioner is ready to pay travel expenses. So, the petitions may be allowed.

4. Per contra, the learned counsel for the respondent filed a counter and objected the petition. The respondent is living with her parents along with her 3 ½ years old female child. Moreover, the respondent is not working as a teacher as stated by the petitioner. After the respondent filed the divorce petition, the respondent has filed GWOP for custody of the child and HMOP for restitution of conjugal rights before the very same Family Court, Madurai and he has not chosen to file those petitions before the Court at Erode, while he claims that he is an intellectual disability person. The reason is stated only for the purpose of this petition. In case of transfer of matrimonial cases, the convenience has to be considered in favour of the wife than that of husband.



Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

In support argument, the learned counsel for the respondent relied on the following citations:

***"1) (2005) 12 Supreme Court Cases 237
(Rajani Kishore Pardeshi /v/ Kishor Babulal Pardeshi)***

***2) (2011) 5 MLJ 454 (Durga /v/ R.Mohan
Ganesh)***

***3) Order in Tr.C.M.P.No.1306 of 2022
dt:30.01.2023 of Madras High Court."***

5. Submissions of both sides and citations are considered.

The petitioner and the respondent are husband and wife. Due to misunderstandings, they are living separately and in such circumstances, the respondent filed the petition in H.M.O.P.No.980 of 2023 for divorce against the husband on the ground of cruelty before the Family Court, Madurai. During pendency of the divorce petition, the petitioner has filed two petitions in G.W.O.P.No.177 of 2024 for custody of the child and H.M.O.P.No.169 of 2024 for restitution conjugal rights and they are pending before the Family Court, Madurai. Now, the petitioner seeks transfer of all these petitions to Erode as he is an intellectual disability person, who could not travel without any support. However, he has filed two petitions before the Family Court, Madurai. The respondent is



Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

residing at Madurai with her 3 ½ years old female child in her parental home.

6. 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 than that of husband, as rightly contended by the respondent side. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, I am of the view that the present petitions filed by the petitioner/husband are liable to be dismissed.

7. In the result, these Transfer Civil Miscellaneous Petitions in Tr.CMP(MD)Nos.247, 248 and 249 of 2024 are dismissed. No costs.

02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

To

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



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Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)Nos.247, 248 and 249 of 2024

02.12.2024