



Tr.CMP.(MD)No.296 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.08.2024

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THE HON'BLE MR JUSTICE P. VADAMALAI

Tr.CMP.(MD)No.296 of 2024

and

C.M.P.(MD)No.6766 of 2024

V.Kanchana Giri

.. Petitioner

Vs.

1.Nithya

2.Minor Aganya Sesha

(2nd respondent represented through
her mother/natural guardian/the
1st respondent herein)

.. Respondents

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in M.C.No.28 of 2024 on the file of the Family Court, Tirunelveli and transfer the same to any other Court having jurisdiction over the issue situated outside Tirunelveli Campus.

(Prayer has been amended vide Court order, dated 06.08.2024, in C.M.P. (MD)No.7187 of 2024 in Tr.C.M.P.(MD)No.296 of 2024 by PVMJ)



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For Petitioner : Mr.K.Chengiz Khan

For Respondents : Mr.A.Mohamed Haneef

ORDER

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the proceeding in M.C.No.28 of 2024 on the file of the Family Court, Tirunelveli and transfer the same to any other Court having jurisdiction over the issue situated outside Tirunelveli Campus.

2. The petitioner is the husband and the 1st respondent is the wife. The marriage between the petitioner and the 1st respondent was solemnized on 17.08.2016 as per Hindu Rites and Customs. Out of the wedlock, a female child was born, who is arrayed as the 2nd respondent herein.

3. Due to disputes and differences, the parties have separated, and the petitioner/husband has initiated the proceeding seeking divorce in H.M.O.P.No.25 of 2024 on the file of the Principal Sub Court, Tenkasi. As a counterblast, the respondent/wife has initiated the proceeding seeking



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maintenance in M.C.No.28 of 2024 on the file of the Family Court,
Tirunelveli.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The learned counsel for the petitioner/husband would submit that the petitioner/husband had already filed a petition seeking restitution of conjugal rights on the file of the Principal Sub Court, Tenkasi in H.M.O.P.No.347 of 2023, which was later transferred to the file of the Family Court, Tirunelveli at the instance of the 1st respondent/wife as per the order of this Court in Tr.C.M.P.(MD)No.82 of 2023 dated 06.04.2023. Thereafter, the petitioner could not attend the Court hearings at Family Court, Tirunelveli, since the brother of the 1st respondent/wife, who is a practicing Advocate at Tirunelveli, had life threatened the petitioner. Due to non – appearance of the petitioner, the said petition was dismissed for default. Hence, the learned counsel for the petitioner seeks transfer of proceeding in M.C.No.28 of 2024 from the file of the Family Court, Tirunelveli to the file of the Judicial Magistrate, Nanguneri.



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6. The learned counsel for the respondents would submit that the allegation made by the petitioner as against the brother of the 1st respondent/wife is false. He further submitted that his client has no objection to transfer the proceeding in M.C.No.28 of 2024 from the file of the Family Court, Tirunelveli to the file of the Judicial Magistrate, Nanguneri.

7. Taking into consideration of the facts and circumstances of the case, and also considering the fact that both the parties have agreed for the transfer of proceeding from the file of the Family Court, Tirunelveli to the file of the Judicial Magistrate, Nanguneri, this Court is inclined to allow this petition accordingly.

8. The learned Judge, Family Court, Tirunelveli is directed to transmit the entire records pertaining to the case in M.C.No.28 of 2024 to the file of the Judicial Magistrate, Nanguneri within a period of three weeks from the date of receipt of a copy of this order, and on receipt of such records, the learned Judicial Magistrate, Nanguneri is directed to take the case on file and dispose of the same as expeditiously as possible in accordance with law.



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WEB COPY 9. Accordingly, the Transfer Civil Miscellaneous Petition stands allowed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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P. VADAMALAI, J.

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To

- 1.The learned Judge, Family Court,
Tirunelveli
- 2.The learned Judicial Magistrate,
Nanguneri

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