



TR.C.M.P. (MD) No. 302 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

TR.C.M.P. (MD) No. 302 of 2024
and
C.M.P. (MD) No. 6929 of 2024

Dr.Vinothini Rani

... Petitioner/Respondent

-VS-

Dr.Praveen

... Respondent/Petitioner

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, to withdraw the H.M.G.O.P.No.98 of 2023 pending on the file of the Family Court, Tirunelveli and transfer the same to the file of the Family Court, Madurai and tried along with H.M.O.P.No.503 of 2024 on the file of the Family Court, Madurai, for disposal of the same on merits in accordance with law.

For Petitioner : Mr.P.Pitchaimuthu

For Respondent : Mr.A.Mohamed Haneef



TR.C.M.P. (MD) No. 302 of 2024

WEB COPY

ORDER

The Transfer Civil Miscellaneous Petition is filed by the petitioner wife to transfer the H.M.G.O.P.No.98 of 2023 pending on the file of the Family Court, Tirunelveli, to the file of the Family Court, Madurai to be tried along with H.M.O.P.No.503 of 2024 and M.C.No.208 of 2023, pending on the file of the Family Court, Madurai.

2. The case of the petitioner wife is that the minor child was only ordinarily residing with her in Madurai and she was also studying kindergarten in the school at Madurai. However, in the guise of showing the kid to his parents, the child was moved to Tirunelveli and thereafter, the Guardian Original Petition was filed. She is contesting the said petition. She has also already filed HMOP for divorce and the maintenance case is also pending. In view thereof, all the three matters have to be tried together and she would be put to grave hardship if she is made to travel to Tirunelveli for the purpose of HMGOP alone.

3. Per contra, the learned Counsel appearing on behalf of the respondent husband would submit that the child is now only with the husband. Therefore,



TR.C.M.P. (MD) No. 302 of 2024

the Guardianship Original Petition need not be transferred to the file of the Family Court, Madurai. He would further submit that he will be put to prejudice if the transfer is ordered.

4. I have considered the rival submissions made on either side and perused the material records of the case.

5. Though, as per Section 9 of the the Guardians and Wards Act, 1890, normally, the guardianship petition has to be filed in the place of ordinary residence of the minor, it can be seen that in this case there are rival claims regarding the ordinary residence of minor. This apart, the connected case for divorce as well as the maintenance case are pending in the Family Court, Madurai. The husband is already attending those cases in the Family Court, Madurai. In view thereof, no hardship will be caused to him by transferring the H.M.G.O.P.No.98 of 2023 also to the file of the Family Court, Madurai and a direction can be given to dispose of all the three cases together.

6. In view thereof, the Transfer Civil Miscellaneous petition No.302 of 2024 stands ordered on the following terms:-



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TR.C.M.P. (MD) No. 302 of 2024

(i) The H.M.G.O.P.No.98 of 2023 on the file of the Family Court, Tirunelveli, is withdrawn and transferred to the file of the Family Court, Madurai to be tried along with H.M.O.P.No.503 of 2024 and M.C.No.208 of 2023;

(ii) Already by an order dated 29.02.2024 in Tr.C.M.P (MD) No.12 of 2024, this Court had considered the fact that both the petitioners are medical professionals and their appearances before the Family Court is dispensed with. In view thereof, in this case also, the appearance of both the petitioners in respect of every hearing is dispensed with, except the necessary hearings such as conducting of counseling, mediation and examination of parties.

(iii) The Family Court, Madurai, is requested to take up all the three cases for expeditious disposal and dispose of the same, in any event, not later than 18 months from the date of receipt of a copy of this order.

Consequently, the connected Miscellaneous Petition is closed. No costs.

26.07.2024

Internet : Yes/No
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TR.C.M.P. (MD) No. 302 of 2024

To

- 1.The Family Court, Tirunelveli.
- 2.The Family Court, Madurai.



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TR.C.M.P. (MD) No. 302 of 2024

D.BHARATHA CHAKRAVARTHY, J.

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TR.C.M.P. (MD) No. 302 of 2024

26.07.2024