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Tr.C.M.P(MD)No.308 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.08.2024

Pronounced on : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.308 of 2024

and

C.M.P(MD)No.7021 of 2024

Nagaraj @ Surya

... Petitioner

Vs.

Kamalasanthi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No. 70 of 2024 on the file of the Family Court, Pudukkottai District to transfer the same to the Sub Court, Paramakudi, Ramanathapuram District.

For Petitioner : Mr.D.Balamurugapandi

For Respondent : Mr.G.Mathavan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw H.M.O.P.No.70 of 2024 on the file of the Family Court, Pudukkottai District and transfer the same to the Sub Court, Paramakudi, Ramanathapuram District.



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2. The petitioner is the husband of the respondent and their marriage was solemnized on 24.02.2002 at Paramakudi as per Hindu rites and customs. Out of wedlock, they have two children. Due to misunderstanding, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.70 of 2024 on the file of the Family Court, Pudukkottai, for divorce.

3. The learned counsel for the petitioner has submitted that the petitioner is frequently travelling across the State due to his avocation. Whiles, the respondent led an adultery life with one Prabu. She married him and settled at Chennai along with two children. Suppressing the same, the respondent filed H.M.O.P.No.70 of 2024 before the Family Court, Pudukkottai as if she is a resident of Pudukkottai. Both were living at Paramakudi and hence, Pudukkottai lack of jurisdiction. Moreover, the petitioner is maintaining his aged parents. It is further alleged that the brothers of the respondent have bad criminal antecedents and hence, there is a life threat to the petitioner. Therefore, the petitioner has filed this present petition seeking transfer.



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4. Per contra, the learned counsel for the respondent objected the petition. He would further submit that the petitioner is doing witchcraft by taking women to his house and permitted them to stay 10 to 20 days. Further, the petitioner is addicted of liquor and he is not maintaining the respondent and her children and driven out of them. So, there was customary divorce deed was entered into between the petitioner and respondent in the presence of elders.

5. Submissions of both sides considered. The petitioner and the respondent are husband and wife. Out of wedlock, they have a son Giriazhakarnathar and a daughter Nitharsanalakshmi, who are aged more than 16 years. Due to misunderstanding, they are living separately. In such circumstances, based on customary divorce deed, the respondent filed H.M.O.P.No.70 of 2024 on the file of the Family Court, Pudukkottai, for divorce. The petitioner's reason for transfer is that he is maintaining his aged parents and apprehension of threat by the brother of the respondent. 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. Further, the petitioner himself states that he



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travels across the State on his avocation, so he would not find it difficult to attend Court at Pudukottai. The other allegations could not be discussed in this transfer petition. 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 petitioner/husband is liable to be dismissed.

6. In the result, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

11.11.2024

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

To

- 1.The Family Court,
Pudukkottai District.
- 2.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.308 of 2024
and
C.M.P(MD)No.7021 of 2024

11.11.2024