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Tr.C.M.P(MD)No.340 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.08.2024

Pronounced on : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.340 of 2024

and

C.M.P(MD)Nos.7585 and 7587 of 2024

Anushaa

... Petitioner

Vs.

A.Naresh Krishnan

... Respondent

(Cause title is accepted and R.Arjunan is recognized as power agent on behalf of the sole petitioner Anushaa vide Court order, dated 12.06.2024 made in C.M.P(MD)Nos.7347 & 7349 of 2024 in Tr.C.M.P(MD)SR.No.37368 of 2024 respectively)

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.99 of 2024 on the file of the Subordinate Court, Alandur and transfer the same to the Family Court, Madurai District.

For Petitioner : Mr.G.R.Balakumar
for H.Mohamed Ashick

For Respondent : Mr.Guru Dhananjay



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ORDER

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2. The petitioner is the wife of the respondent. The marriage between the petitioner and respondent was solemnized on 05.02.2020 as per Hindu rites and customs. Out of wedlock, the petitioner gave a female child on 13.11.2020 and the child died on the same day. Both are working in Australia and due to misunderstanding, they are living in different cities. Thereafter, the petitioner has filed the petition in H.M.O.P.No.1483 of 2023 before the Family Court, Madurai against the respondent for restitution of conjugal rights. The respondent has filed H.M.O.P.No.99 of 2024 before the Sub Court, Alanthur against the petitioner for divorce.

3. The learned counsel for the petitioner has submitted that both family members are residing in Madurai. The petitioner is a permanent resident of Madurai. The father of the petitioner is conducting the case



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as her power of attorney. The mother of the petitioner is a heart patient and her father is hardly attending to her mother. The respondent knew very well about the pendency of H.M.O.P.No.1483 of 2023 in Madurai and he is attending. Suppressing the same, the respondent filed H.M.O.P.No.99 of 2024 before the Subordinate Court, Alanthur for divorce. The petitioner's mother as well as her aged father find it very difficult to travel to Chennai. The respondent is not maintaining them. The petitioner is solely depending on her parents. Therefore, the petitioner has filed this present petition seeking transfer of H.M.O.P.No. 99 of 2024.

4. The learned counsel for the respondent has submitted that the respondent was subjected to harassment by the petitioner after marriage and she left the matrimonial home. The respondent has to maintain his aged parents and younger sister who are residing in Chennai. The petitioner also knows about the respondent's family at Chennai. The petitioner and the respondent are now residing in Australia and both are well educated and well settled. So, from Australia, both have to attend the Courts in person in case of Court direction. Hence, pending petitions in two Courts would not cause harm to the petitioner.



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5. On hearing both sides and on perusal of records, it is clear that the petitioner and respondent are spouses and their marriage was solemnized on 05.02.2020 at Madurai. It is admitted that both are living in Australia. As the matrimonial tie between the petitioner and respondent became strained, they are living separately in Australia in different Towns. The petitioner has filed H.M.O.P.No.1483 of 2023 against the respondent for restitution of conjugal rights which is pending before the Family Court, Madurai. This was not disputed by the respondent. As a counter case, the respondent filed H.M.O.P.No.99 of 2024 for divorce which is pending in Subordinate Court, Alanthur. Now, the petitioner/wife has filed this present petition for transfer of the said petition from Alanthur to Madurai.

6. It is well settled proposition of law regarding transfer petitions, more specifically in the matters of matrimonial cases that it is the residence of the wife, which determines the question of jurisdiction. That apart, the report submitted by the Law Commission as well as the National Commission for Women has also emphasized the need for provisions to enable women to approach the nearest jurisdictional Court to redress their matrimonial grievances. Still, the Hon'ble Supreme



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Court has reiterated the difficulties faced by the wife while attending the divorce petition filed by the husband and transferred the divorce petition where the wife ordinarily resides. The respondent has not disputed about the residency of the petitioner in Madurai and the pendency of petition for restitution of conjugal rights filed by the petitioner is pending before the Family Court, Madurai. Hence, this Court is inclined to allow this petition.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.99 of 2024 pending on the file of the Subordinate Court, Alanthur stands transferred to the file of the Family Court, Madurai to be tried along with H.M.O.P.No.1483 of 2023 according to law. No costs. Consequently, the connected Miscellaneous Petitions are closed.

25.09.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD



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To

- 1.The Subordinate Court,
Alandur.
- 2.The Family Court,
Madurai District.
- 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.340 of 2024
and
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