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Tr.C.M.P(MD)No.315 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.08.2024

Pronounced on : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.315 of 2024

and

C.M.P(MD)No.7127 of 2024

Dr.Hema Malini

... Petitioner

Vs.

Dr.S.Rajiv

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.188 of 2024 pending on the file of the Family Court, Karur and transfer the same to the file of the Sub Court, Oddanchathiram, Dindigul District.

For Petitioner : Mr.S.Kishore Kumar

For Respondent : Mr.C.Muthu Saravanan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the H.M.O.P.No.188 of 2024 pending on the file of the Family Court, Karur and to transfer the same to the file of the Sub Court, Oddanchathiram.



Tr.C.M.P(MD)No.315 of 2024

2. The petitioner is the wife of the respondent and their marriage was solemnized on 05.06.2017 as per Hindu customs and rites. Out of wedlock, they were blessed with twins and both are sons named Jaishnav and Jhanav. Upon misunderstanding between them, they are living separately. The respondent has filed H.M.O.P.No.188 of 2024 before the Family Court, Karur, for divorce on the ground of cruelty against the petitioner. The petitioner filed M.C.No.07 of 2024 before the Judicial Magistrate Court, Oddanchathiram, seeking maintenance against the respondent. Further, the respondent has filed G.W.O.P.No.516 of 2023 before the District Court, Dindigul. All the petitions are pending for disposal.

3. The learned counsel for the petitioner has submitted that the petitioner finds it very difficult to travel to Karur by travelling more than 250 kms as she is maintaining her children and they are residing along with her parents at Oddanchathiram. By allowing this petition, the respondent will not be prejudiced as the respondent has also to attend the maintenance case before Oddanchathiram and also GWOP case in Dindigul.



Tr.C.M.P(MD)No.315 of 2024

4. The learned counsel for the respondent objected the petition.

He further submitted that upon the harassment and adultery of the petitioner, the respondent filed the divorce petition. It is admitted that the petitioner and the children are living with her parents in Oddanchathiram. However, the petitioner has to attend the Dindigul Court before which GWOP is filed and pending. Therefore, the divorce petition may be transferred to the Family Court, Dindigul.

5. Submissions of both sides considered. The respondent and the petitioner are husband and wife. Out of wedlock, they have twin sons. Due to misunderstanding arose in their matrimonial relationship, they are living separately and in such circumstances, the respondent filed the petition for divorce before the Family Court, Karur and also filed GWOP before the District Court, Dindigul. The petitioner also filed the maintenance case before the Judicial Magistrate Court, Oddanchatram. In a catena of decisions of the Hon'ble Supreme Court, 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. Moreover, the transfer is sought to the Sub Court and hence, the appearance of the



Tr.C.M.P(MD)No.315 of 2024

respondent in each and every hearing need not necessary as like Family Court. Therefore, taking note of the settled position of convenience of the wife in matrimonial cases, I am of the view that the present petition filed by the wife is to be allowed.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.188 of 2024 pending on the file of the Family Court, Karur, is hereby withdrawn and transferred to the file of the Sub Court, Oddanchathiram, Dindigul District, for disposal in accordance with law. The learned Judge, Family Court, Karur, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.188 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

07.11.2024

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



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Tr.C.M.P(MD)No.315 of 2024

To

- 1.The Family Court,
Karur.
- 2.The Sub Court,
Oddanchathiram,
Dindigul District.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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Tr.C.M.P(MD)No.315 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)No.315 of 2024
and
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