



WEB COPY



Tr.C.M.P(MD)Nos.270 and 271 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.08.2024

Pronounced on : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)Nos.270 and 271 of 2023

and

C.M.P(MD)Nos.6058 and 6060 of 2023

Tr.C.M.P(MD)No.270 of 2023

S.Jeyanthan

... Petitioner

Vs.

Saraswathi

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.162 of 2023 pending on the file of the Family Court, Coimbatore and transfer the same to the Family Court, Sivagangai.

Tr.C.M.P(MD)No.271 of 2023

S.Jeyanthan

... Petitioner

Vs.

1.Saraswathi

2.J.Naveen (Minor)

3.J.Serina (Minor)

... Respondent

(Minors 2 and 3 represented by their mother
namely Saraswathi 1st respondent)



Tr.C.M.P(MD)Nos.270 and 271 of 2023

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw M.C.No.26 of 2023 pending on the file of the Family Court, Coimbatore and transfer the same to the Family Court, Sivagangai.

In Both Petitions:-

For Petitioner : Mr.M.Raghuman Khan

For Respondent/s : Mr.R.Balamuruganatham

COMMON ORDER

The Transfer Miscellaneous Petition in Tr.C.M.P(MD)No.270 of 2023 is filed seeking for an order to withdraw H.M.O.P.No.162 of 2023 pending on the file of the Family Court, Coimbatore and transfer the same to the Family Court, Sivagangai.

2. The Transfer Miscellaneous Petition in Tr.C.M.P(MD)No.271 of 2023 is filed seeking for an order to withdraw M.C.No.26 of 2023 pending on the file of the Family Court, Coimbatore and transfer the same to the Family Court, Sivagangai.

3. The petitioner is the husband of the first respondent and their marriage was solemnized on 18.06.2007 at the house of the petitioner in



Tr.C.M.P(MD)Nos.270 and 271 of 2023

T.Puliyankulam of Sivagangai District. Out of wedlock, they have been blessed with a son named J.Naveen and a daughter named J.Serina. Upon misunderstanding between them, they are living separately. The first respondent has filed H.M.O.P.No.162 of 2023 before the Family Court, Coimbatore, for divorce on the ground of cruelty against the petitioner. She also filed another case in M.C.No.26 of 2023 before the same Family Court, Coimbatore, seeking maintenance against the petitioner. Both petitions are pending for disposal.

4. The learned counsel for the petitioner has submitted that the petitioner has been experiencing irreparable damage and mental agony attending both cases by travelling 12 hours journey, since the Court insists appearance of the petitioner on all hearings. The marriage was held at Sivagangai District. The first respondent mentioned her parental address whereas in the aadhaar card Sivagangai address is mentioned. So, by making concocted stories, the 1st respondent filed two cases before the Family Court, Coimbatore. The petitioner being sufferer of several ailments is maintaining his aged parents. The petitioner finds it very difficult to travel. Therefore, he has filed this present petition seeking transfer.



Tr.C.M.P(MD)Nos.270 and 271 of 2023

WEB COPY

5. Per contra, the learned counsel for the respondents contended that the first respondent/wife was harassed by the petitioner and his family members. The first respondent and her children were left with her parental house by the petitioner. Now, the first respondent is residing along with her parents and admitted her children in Kendriya Vidyalaya School, Coimbatore and also produced a copy of their school ID card. The petitioner has evaded to maintain the respondents and without paying any maintenance.

6. In reply, the petitioner's side contended that without getting Transfer Certificate, the first respondent admitted the children in Coimbatore by giving false materials. The petitioner requested to transfer both cases at the middle of both parties i.e., the Family Court, Dindigul.

7. On hearing both sides and on perusal of the records, it is clear that the marriage between the petitioner and the first respondent was solemnized on 18.06.2007 and out of wedlock, they have a son and a daughter. Due to misunderstanding arose in their matrimonial relationship, they are living separately. The first respondent stated that



Tr.C.M.P(MD)Nos.270 and 271 of 2023

since the petitioner failed to maintain them, she filed the divorce petition as well as the maintenance case before the Family Court, Coimbatore.

8. 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, in case of initiation of matrimonial cases. 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 the women to approach the nearest jurisdictional Court to redress their matrimonial grievances. Still, the Hon'ble Supreme 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.

9. In the case on hand, the petitioner has not denied that the respondents are now residing in Coimbatore at the parental home of the first respondent. He also admitted that his children are studying at Kendriya Vidyalaya in Coimbatore. The first respondent has also produced a copy of their school ID card, which was not denied by the



Tr.C.M.P(MD)Nos.270 and 271 of 2023

petitioner. In the above facts and circumstances and also in view of the settled proposition and the report submitted by the Law Commission as well as the National Commission for Women, this Court is not inclined to allow the petitions.

10. In the result, these Transfer Miscellaneous petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

15.11.2024

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

VSD

To

- 1.The Family Court, Coimbatore.
- 2.The Family Court, Sivagangai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P(MD)Nos.270 and 271 of 2023

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)Nos.270 and 271 of 2023
and
C.M.P(MD)Nos.6058 and 6060 of 2023

15.11.2024