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Tr.C.M.P(MD)No.390 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.09.2024

Pronounced on : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.390 of 2024

and

C.M.P(MD)No.8546 of 2024

Banupriya

... Petitioner

Vs.

Iyyappan

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in H.M.I.P.No.59 of 2024 on the file of the Sub Court, Mettur, Salem District and transfer the same to the Principal Sub Court, Pudukkottai.

For Petitioner : Mr.D.Ramesh Kumar

For Respondent : Mr.G.Rajaguru

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the H.M.O.P.No.59 of 2024 on the file of the Subordinate Court, Mettur, Salem District and to transfer the same to the file of the Principal Sub Court, Pudukkottai.



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2. The petitioner herein is the wife of the respondent. Their marriage was solemnized on 10.01.2021 as per Hindu rites and customs.

As the respondent started harassing the petitioner and demanded more dowry at the instigation of his family members and thereby, misunderstanding developed between them. The petitioner was forced to leave the matrimonial home. She is now residing with her parents. Thereafter, the respondent filed the petition in H.M.O.P.No.59 of 2024 before the Sub Court, Mettur, Salem District, for restitution of conjugal rights.

3. The learned counsel for the petitioner has submitted that the petitioner is residing with her aged parents. She is depending on the income of her old parents and she is not financially capable of conducting the case at Mettur. Moreover, the respondent is an influential person in that locality and the petitioner apprehends a life threat also. In the above circumstance, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the respondent objected the petition. He further submitted that the respondent filed the petition for restitution



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of conjugal rights only. There is no proof for the alleged life threat. The petitioner has filed this transfer petition further to harass the respondent.

The respondent is ready to take back the petitioner in the matrimonial home. The respondent is living hard to maintain himself and his parents. The HMOP petition may be transferred to the middle station i.e., Karur between Mettur and Pudukottai.

5. Submissions of both sides considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the petition for restitution of conjugal rights before the Sub Court, Mettur. As per the number 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 Sub Court and hence, the appearance of the 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.



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6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.59 of 2024 on the file of the Sub Court, Mettur, is hereby withdrawn and transferred to the file of the Principal Sub Court, Pudukottai for disposal in accordance with law. The learned Sub Judge, Mettur, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.59 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.

19.11.2024

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

To

- 1.The Sub Court,
Mettur, Salem District.
- 2.The Principal Sub Court,
Pudukottai.
- 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.390 of 2024
and
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19.11.2024