



Tr.CMP(MD)No.328 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Tr.CMP(MD)No.328 of 2023

and

CMP(MD)No.7155 of 2023

K.Monisha

.. Petitioner/Petitioner

Vs.

G.Kaliyaperumal

.. Respondent/Petitioner

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the and transfer the F.C.H.M.O.P.No.32 of 2019 from the file of the Family Court, Ariyalur to the file of the Family Court, Tiruchirappalli.

For Petitioner : Mr.C.Vakeeswaran

ORDER

The wife is the petitioner herein. The husband is the respondent. The respondent/husband filed H.M.O.P.No.32 of 2019 before the Family Court, Ariyalur, seeking a restitution of conjugal rights. The petitioner



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filed H.M.O.P.No.53 of 2021 before the Principal Sub Court, Lalgudi, seeking decree of divorce. Both the matters are pending. This petition has been filed to transfer the H.M.O.P.No.32 of 2019 from the file of the Family Court, Ariyalur to the file of the Family Court, Tiruchirappalli.

2. The marriage between the petitioner and the respondent took place on 04.04.2016. Thereafter some matrimonial issue arose between them. Now, they are living separately. The respondent filed HMOP.32 of 2019 before the Family Court, Ariyalur seeking restitution of conjugal rights. The petitioner/wife is working as a Teacher in Trichy. She has to take care of her age old parents and child. She also filed a divorce application in HMOP.No.53 of 2021 before the Principal Sub Court, Lalgudi and the same is pending. Similarly GWOP.No.359 of 2022 is also pending before the learned Principal District Judge, Trichy over the guardianship issue of the child.

3. Since three proceedings are pending in respect of the very same issue, this petition is filed seeking transfer of HMOP.32 of 2019 from the file of the Family Court, Ariyalur to the Family Court, Trichy.



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4. Heard the learned counsel for the petitioner.

5. When a query was made by this Court to the learned counsel for the petitioner as to the stage of the HMOP.53 of 2021, he would submit that it is still pending. Since the subject matter of HMOP.53 of 2021 and HMOP.32 of 2019 are liable to be enquired simultaneously or jointly, it is submitted that by exercising the power conferred upon this Court under Article 227 of the Constitution of India, both matters may be transferred to the Family Court, Trichy, eventhough no specific request is made in this petition seeking transfer of HMOP.53 of 2021.

6. The request made by the petitioner appears to be genuine. So, this Court is inclined to transfer both the matters pending before the respective Courts to the Family Court, Trichy. Accordingly, this Court withdraws the HMOP.32 of 2019 from the file of the Family Court, Ariyalur and transfer to the file of the Family Court, Trichy and also withdraws the HMOP.53 of 2021 from the file of the Principal Sub Court, Lalgudi and transfer to the file of the Family Court, Trichy. The Family Court, Ariyalur, is directed to transfer the entire records in



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H.M.O.P.No.32 of 2019 to the transferee Court forthwith and the Principal Sub Court, Lalgudi is directed to transfer the entire records in HMOP.53 of 2021 to the transferee Court forthwith. The transferee Court shall receive the records and assign a new number in each case, send notice to both parties and proceed both the matters jointly.

7. With the above direction, this Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected miscellaneous petition is closed.

05.01.2024

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

PJL

To

1. The Principal Sub Judge, Lalgudi.
2. The Judge, Family Court, Ariyalur.
3. The Judge, Family Court, Trichy.



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G.ILANGOVAN, J.

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