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Tr.C.M.P(MD)No.421 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.08.2024

Pronounced on : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.421 of 2024

and

C.M.P(MD)No.9219 of 2024

Chitturaani

... Petitioner

Vs.

Meenakshi Sundaram Annamalai

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No. 193 of 2024 on the file of the Family Court, Sivagangai and transfer to the Principal Sub Court, Kancheepuram.

For Petitioner : Mr.T.Antony Arulraj

For Respondent : Mr.K.Chockalingam

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw H.M.O.P.No.193 of 2024 on the file of the Family Court, Sivagangai and transfer the same to the Principal Sub Court, Kancheepuram.



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2. The petitioner is the wife of the respondent and their marriage was solemnized on 23.05.2019 as per Hindu Rites and Customs at Sirukoodalpatti, Sivagangai. She became pregnant. After that due to misunderstanding between them, the respondent's family forced the petitioner's parents to take her. The petitioner is residing with her parents at Kancheepuram. She gave birth a female child on 21.08.2020. The respondent filed H.M.O.P.No.193 of 2024 before the Family Court, Sivagangai for restitution of conjugal rights.

3. The learned counsel for the petitioner has submitted that the petitioner was forcibly driven out from the matrimonial home while she was pregnant. Now, the petitioner is residing along with her parents with her four year old female child. The respondent is not maintaining them. The petitioner is facing difficulty to maintain herself and her child without sufficient means and hence, she finds it very difficult to travel from Kancheepuram to Sivagangai. Therefore, the petitioner has filed this present petition seeking transfer.

4. Per contra, the learned counsel for the respondent contended that the respondent has no serious objection for transfer of H.M.O.P.No.



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193 of 2024 to the Family Court, Chennai and the respondent is residing 23 km from Chennai and the respondent's town Kancheepuram is 53 km from Chennai.

5. On hearing both and on perusal of records, it is not in dispute that the petitioner has been residing in her parental home at Kancheepuram from her pregnancy period onwards and the child is 4 years old. 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 and the convenience of the wife should be predominantly looked into while deciding the question of transfer. However, during the course of the argument, both sides have agreed that H.M.O.P.No.193 of 2024 may be transferred from the file of the Family Court, Sivagangai to the file of the Principal Sub Court, Kancheepuram with a direction for disposal of the petition within a stipulated time.

6. In view of both sides submissions, this Court is inclined to allow this petition with a direction for disposal of the petition in



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H.M.O.P.No.193 of 2024, which is filed for restitution of conjugal rights within a stipulated period.

7. In the result, this Transfer Miscellaneous Petition is allowed. The petition in H.M.O.P.No.193 of 2024 pending on the file of the Family Court, Sivagangai, stands transferred to the file of the Principal Sub Court, Kancheepuram, for disposal according to law. The learned Judge, Family Court, Sivagangai, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.193 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Principal Sub Judge, Kancheepuram, is directed to dispose of the matter on merits within a period of six months from the date of receipt of records. No costs. Consequently, the connected Miscellaneous Petition is closed.

13.11.2024

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

- 1.The Family Judge,
Sivagangai.
- 2.The Principal Sub Judge,
Kancheepuram.
- 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.421 of 2024
and
C.M.P(MD)No.9219 of 2024

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