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Tr.CMP.(MD)No.369 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Tr.CMP (MD) No.369 of 2023

and

CMP (MD) No.7880 of 2023

Revathi : Petitioner/Respondent

Vs.

Rajkumar : Respondent/Petitioner

PRAYER:-Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to withdraw the OP No.102 of 2023 on the file of the Family Court, Dindigul to the Subordinate Court, Oddanchatram and pass such further or other orders.

For Petitioner : Mrs.V.Muthumani

For Respondent : Mr.D.Venkatesh

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in OP No.102 of 2023 on the file of the Family Court, Dindigul to the Subordinate Court, Oddanchatram, Dindigul District.



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2. The facts in brief:-

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The marriage between the parties took place, on 24/08/2020. A boy child was born on 28/08/2021. The boy became a special child and so, husband refused to take the child to the hospital in Oddanchatram. The wife was discharged from the hospital after treatment. The boy was affected by unknown disease. Considering the medical expenses of the child, the husband started neglecting the wife and the child. For about a year, she was taking treatment for the child. During that period, neither the husband nor his parents visited her. Later, she was informed that they do not want the child and the wife to be taken in their matrimonial home. Later, the mother-in-law lodged a complaint against the wife. The Police enquired the matter and advised them to take care of the child and the wife. But later, both the child and the wife driven out of the house. In the meantime, he also filed a petition making character assassination. In the mediation process, on 25/04/2023, she handed over the child to the husband with the hope that he will change his mind. Even at that time, the child was not taken proper care. The child was dropped. Because of that, the child again become sick and admitted in the hospital. A case in Crime No.144 of 2023 was registered against



5. When the matter was heard by the concerned roster Judge, the respondent has submitted that the petitioner is residing in the matrimonial home till now. Only to harass the respondent, the present petition is filed. The petitioner informed that she is residing along with her parents in Door No.9/45A, Seerangoundanpudur, Oddanchatram, Taluk, Dindigul. On that account, the petition was allowed, transferred the case from the file of the Family Court, Dindigul to the Court of the Subordinate Judge, Oddanchatram.



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6.Later, a mention was made at the instance of the respondent stating that after the transfer, the petitioner locked the matrimonial house and failed to hand over the key. For which, the petitioner submitted that she is temporarily residing in Oddanchatram, but not ready to hand over the key. Taking note of the different stand taken by her, the order of transfer was recalled and the matter was again posted for re-hearing. Now listed the matter, after change of the roster.

7.When the matter was referred to Mediation and Conciliation Centre, attached to this Bench, the parties were directed to appear before the Mediation Centre. That order was passed, on 14/02/2024 in the morning. But in the evening, the learned counsel appearing for the respondent appeared and submitted that absolutely, there is no possibility of settlement between the parties. He submitted that in the presence of Mediator, the wife assaulted the husband. Because of that, the incident. Now the husband is not willing to take the mediation.

8.Per contra, the learned counsel appearing for the petitioner would submit that the unfortunate event took place out of anger before the Mediator, when she handed over the child to the husband. But the husband



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negligently dropped the child in the Floor. So, the special child become sick and thereafter, his health condition was deteriorated. So except that, there was absolutely no reason for her to cause assault to the husband.

9.Now whatever it may be, it seen that the matrimonial house situated where the husband and wife residing is a rented house. Now the rent period is also over and the landlord has taken over the possession. So there is no question of mediation at the present stage of the situation. So I am of the considered view that the situation may change in the course of time.

10.Even though, some sort of indifferent attitude was exhibited by the petitioner in refusing to vacate the matrimonial home and taking contradictory stand, I am of the considered view that the matter can be transferred to Subordinate Court, Oddanchatram, Didigul District. Since the petition in DVC No.1 of 2024 is pending before the Judicial Magistrate, Oddanchatram, this matter also be transferred to the Subordinate Court, Oddanchatram for disposal.



12. With the above-said directions, the Transfer Civil Miscellaneous Petition stands **allowed**. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

14/02/2024

Index: Yes/No
Internet: Yes/No
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To,

- 1.The Family Court,
Dindigul
- 2.The Subordinate Court,
Oddanchatram,
Dindigul District.



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G.ILANGOVAN, J

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