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Tr.C.M.P(MD)No.436 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.08.2024

Pronounced on : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.436 of 2024

and

C.M.P(MD)No.9531 of 2024

Jayalakshmi

... Petitioner

Vs.

P.Sundarraaj

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case of H.M.O.P.No. 183 of 2024 from the Family Court, Dindigul, Dindigul District and transfer the same to the Sub Court, Aruppukkottai, Virudhunagar District.

For Petitioner : Mr.R.Murugappan

For Respondent : Mr.C.Prabhu

ORDER

This petition is filed seeking for an order to withdraw H.M.O.P.No.183 of 2024 on the file of the Family Court, Dindigul, Dindigul District and to transfer the same to the Subordinate Court, Aruppukkottai.



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2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 11.03.2016. Out of wedlock, they have a female child. Because of giving birth of female child, the respondent abandoned the petitioner and she was driven out to her parental home Pillaiyarkulam of Virudhunagar District. The respondent has not given any money towards maintenance and hence, she filed M.C.No.6 of 2024 before the Judicial Magistrate Court, Thiruchuli. As a counterblast, the respondent filed the petition in H.M.O.P.No.183 of 2024 before the Family Court, Dindigul against the petitioner for restitution of conjugal rights.

3. The learned counsel for the petitioner has submitted that the petitioner and her child now residing at her parental house in Pillaiyarkulam village, Thiruchuli Taluk, Virudhunagar District. Moreover, the petitioner being a woman with female child finds it very difficult to travel to Dindigul. The petitioner is jobless. The respondent is not maintaining them. The petitioner is solely depending on her parents. Therefore, the petitioner has filed this present petition seeking transfer of conjugal rights petition filed by the respondent.



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4. The learned counsel for the respondent filed a counter and has submitted that the petitioner is staying at Pulavaikkarai, which is very near Thiruppuvanam. To travel from Thiruppuvaam to Madurai, the distance is only 20 km. The respondent is doing business in Dindigul, which is 200 km from Aruppukkottai. Moreover, the respondent is taking care of his father, who is aged 69 years, who underwent open heart surgery. In case, the transfer is considered, may be ordered to the Court in Madurai.

5. On hearing both sides and on perusal of records, it is clear that the petitioner and the respondent are spouses and their marriage was solemnized on 11.03.2016 and out of wedlock, they have a female child. As their matrimonial tie between the petitioner and respondent became strained, they are living separately. The respondent has filed M.C.No.6 of 2024 before the Judicial Magistrate Court, Thiruchuli. The respondent filed H.M.O.P.No.183 of 2024 for restitution of conjugal rights, which is pending before the Family Court, Dindigul. Now, the petitioner/wife has filed this present petition for transfer of H.M.O.P.No.183 of 2024 from Dindigul to Aruppukkottai.



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6. In view of the settled proposition of law of the Hon'ble Supreme

Court that the convenience of the wife should be predominantly looked into, while deciding the question of transfer of matrimonial petitions and also in view of the submissions by both parties, it is clear that the first respondent is residing along with her female child at her parental home and the same is not disputed by the respondent. Moreover, the respondent has to appear in the case in M.C.No.6 of 2024 at Thiruchuli. Further, in the restitution of conjugal rights case, the appearance of the petitioner is always not necessary except on material hearings and directions for appearance by the Court.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.183 of 2024 pending on the file of the Family Court, Dindigul stands transferred to the file of the Subordinate Court, Aruppukkottai, Virudhunagar District for disposal according to law. No costs. Consequently, the connected Miscellaneous Petition is closed.

15.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

- 1.The Family Court,
Dindigul, Dindigul District.
- 2.The Sub Court,
Aruppukkottai, Virudhunagar District.
- 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.436 of 2024
and
C.M.P(MD)No.9531 of 2024

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