



TR.C.M.P(MD).No.415 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

TR.C.M.P(MD)No.415 of 2023

and

C.M.P(MD)No.8662 of 2023

Rajesh

... Petitioners

Vs

Nagajothi @ Vithya

... Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in M.C.No.65 of 2022 from the Family Court, Tirunelveli and transfer the same to the Family Court, Ramanathapuram.

For Petitioner : Mr.S.Vinodh

For Respondent : Mr.M.M.Manivelpandian



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ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw the petition in M.C.No.65 of 2022 from the Family Court, Tirunelveli and transfer the same to the Family Court, Ramanathapuram.

2. The facts in brief is that the marriage between the parties took place on 27.05.2018 at Aadhi Jeganatha Perumal Temple, Thiruppullani, Ramanathapuram District. The wife is a divorcee and it is her second marriage. After the present marriage, a female child was also born. Now the child is aged about three years. Since the wife is not willing to continue the marital relationship because of the problem created by the parents of her husband, on 13.06.2022, the wife left the matrimonial home and never returned. The petitioner herein / husband filed H.M.O.P.No.7 of 2019 before the Subordinate Court, Ramanathapuram, seeking restitution of conjugal rights. There was a compromise between the parties. Later, again trouble arose, when she started demanding money for settling the debt of her parents. The petitioner's mother is also affected by cancer. The efforts made by the petitioner to bring her back to his home failed. So he filed the present H.M.O.P. before the



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Family Court, Ramanathapuram. Pending the same, the respondent / wife filed D.V.A.No.62 of 2022 before the learned Judicial Magistrate No.1, Tirunelveli. Apart from that she has also filed M.C.No.65 of 2022 on the file of the Family Court, Tirunelveli, seeking maintenance. Finding it difficult to travel to Tirunelveli to attend the proceedings, this petition came to be filed seeking transfer.

3. Heard both sides.

4. At the time of hearing, learned counsel for the petitioner would submit that eventhough the matter was referred to mediation, there was no settlement. Since the petitioner is willing to live with the respondent, he filed H.M.O.P.No.116 of 2022 before the Family Court, Ramanathapuram. But the wife filed M.C., invoking the jurisdiction of Judicial Magistrate No.1, Tirunelveli, to harass him. Since the petitioner's mother is affected by cancer, he finds it very difficult to travel to attend the proceedings in M.C.No.65 of 2022 before the Family Court, Tirunelveli and hence this Transfer Civil Miscellaneous Petition came to be filed.



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5. Per contra, learned counsel for the respondent would submit that eventhough the matter is referred to the Mediation centre, the petitioner did not show any real interest. Even at the time of mediation, the petitioner has advertised in the matrimonial web side for second marriage. When that was shown to him, he was unable to give any proper answer. Apart from that it is also now submitted that the respondent also filed Tr.C.M.P.(MD)No.109 of 2023 before this Court seeking transfer of the proceedings in H.M.O.P.No.116 of 2022 which is pending on the file of the Family Court, Ramanathapuram to the Family Court, Tirunelveli, to be tried along with M.C.No.65 of 2022.

6. Learned counsel for the respondent would submit that only after filing M.C.No.65 of 2022, the present H.M.O.P. was filed on the very next day of the mediation process with a view to harass the respondent. Only on that account, she filed Tr.C.M.P.(MD)No.109 of 2023 and that has been transferred to the Family Court, Tirunelveli and stated to be pending. Suppressing all those facts only, the present petition is filed. Eventhough, learned counsel for the petitioner would submit that no



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notice was issued to him, but the respondent would submit that notice was issued to the petitioner in Tr.C.M.P.(MD)No.109 of 2023 but inspite of that he did not choose to appear. It is also further submitted that continuously, the respondent was ill-treated, even assaulted. According to her, this petition has been filed with a view to harass her.

7. Without going into other aspects, since H.M.O.P.No.116 of 2022 is also now transferred to Family Court, Tirunelveli, I find absolutely no reason to transfer the present MC proceedings from the Family Court Tirunelveli to Family Court, Ramanathapuram.

8. Accordingly, this Transfer Civil Miscellaneous Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.02.2024

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

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G.ILANGO VAN, J.

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To

1. The Family Court, Tirunelveli.

ORDER
IN

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01.02.2024