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Tr.C.M.P(MD)No.480 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.09.2024

Pronounced on : 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.480 of 2024

and

C.M.P(MD)No.11191 of 2024

P.Latha

... Petitioner

Vs.

M.Kathiresan

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.1075 of 2022 from the file of the Family Court, Theni and transfer the same to the Family Court, Dindigul.

For Petitioner : Mr.S.Arjun

For Respondent : Mr.S.Balaji

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw H.M.O.P.No.1075 of 2022 on the file of the Family Court, Theni and to transfer the same to the file of the Family Court, Dindigul.



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2. The petitioner herein is the wife of the respondent. Their marriage was solemnized on 22.11.2015 as per Hindu rites and customs. Out of wedlock, they have been blessed with two female children. Due to misunderstanding between the spouses, they are living separately. The petitioner is now residing with her parents. Thereafter, the respondent filed the petition in H.M.O.P.No.1075 of 2022 before the Family Court, Theni against the petitioner for divorce.

3. The learned counsel for the petitioner has submitted that the respondent and his family members harassed and tortured the petitioner as she is ineligible for giving birth a male child and thereby, she was forced to leave the matrimonial home along with her female children. She is depending on the income of her old parents at Nilakottai Taluk. She has no sufficient means to maintain herself and her children, so she finds it difficult to attend the court at Theni by travelling more than 50 km. Moreover, when she attends the Court, the respondent and his family members threatened her to give consent for divorce. Hence, the petitioner lodged a police complaint against respondent before the Nilakottai police station under CSR.No.567/2021. In the above



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circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the respondent filed a counter and objected the petition. He further submitted that the petitioner is a psychiatric patient and suppressing the fact the petitioner was given marriage to the respondent. However, the respondent spent a huge amount for her medical treatment. The petitioner voluntarily deserted the matrimonial home. The respondent filed H.M.O.P.No.1075 of 2022 for divorce and ex-parte order was passed on 17.06.2023. Thereafter, the petitioner purposely filed the petition to set aside the ex-parte order. Now, HMOP is pending for cross examination of P.W.1. at this stage, the petitioner has filed this transfer petition to drag on the proceedings.

5. Submissions of both sides considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the petition for divorce on the ground of cruelty and desertion against the petitioner and the same is pending before the Family Court, Theni. Upon submission, a report from the Family Court, Theni has been called



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for and the same was also received. The report shows that only chief evidence of P.W.1 was adduced, the cross examination of P.W.1 is pending and now it is adjourned for cross of P.W.1.

6. It is well settled proposition of law by the Hon'ble Supreme Court that whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference. The main petition is only pending for cross examination of PW1. No other witness was examined on the petitioner's side. So, there will be no prejudice caused to the respondent. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, I am of the view that the present petition filed by the wife is to be allowed

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.1075 of 2022 on the file of the Family Court, Theni, is hereby withdrawn and transferred to the file of the Family Court, Dindigul for disposal in accordance with law. The learned Judge, Family Court, Theni, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.1075 of 2022 to the



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transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

21.11.2024

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

To

- 1.The Family Court,
Theni.
- 2.The Family Court,
Dindigul.
- 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.480 of 2024
and
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