



Tr.C.M.P(MD)No.475 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.09.2024

Pronounced on : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.475 of 2024

and

C.M.P(MD)No.11076 of 2024

M.Nagasundaram

... Petitioner

Vs.

N.Marudhambal

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw O.P.No.3644 of 2022 on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Pudukottai.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.M.Karuppasamy

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the O.P.No.3644 of 2022 on the file of the I Additional Family Court, Chennai and to transfer the same to the file of the Sub Court, Pudukkottai.



Tr.C.M.P(MD)No.475 of 2024

2. The petitioner is the husband of the respondent. The petitioner got married with the respondent on 27.01.2005 at Annavasal of Pudukottai district. Out of wedlock, they were blessed with one son and two daughters named N.Pandiselvam, aged 16 years, N.Durgadevi aged 10 years and Vethasri aged 7 years. During their marital life, misunderstanding arose between them upon suspect by each other, the respondent was forced to leave the matrimonial home with her 3rd child Vethasri and she is residing in Chennai. The respondent filed O.P.No. 3644 of 2022 before the I Additional Family Court, Chennai. Hence, this petition is filed seeking transfer.

3. The learned counsel for the petitioner has submitted that the respondent had illicit intimacy with one Somu and after his warning, she continued. On 13.04.2022, she along with 2nd daughter Vethasri eloped with him. When she was admitted in PCVC Home, the petitioner approached and requested for reunion, but she refused. Then, she filed D.V.C.No.93 of 2022 before the Additional Mahila Court at Egmore and also filed O.P.No.3644 of 2022 before the I Additional Family Court, Chennai, for divorce. The petitioner is living with his two children and also maintaining his father, who is a disabled man. The respondent is



Tr.C.M.P(MD)No.475 of 2024

living with the said Somu. The petitioner apprehends fear by the Somu at Chennai. The petitioner travels more than 1000 kms and has to spend Rs.2,000/- per hearing. Moreover, if OP transferred to the Sub Court she need not appear at each and every hearing. So, this transfer petition may be allowed. In support of his contention, the learned counsel for the petitioner relied on the decision of the **Full Bench of this Court** reported in **2022 (6) CTC 833**. He further submits that in case of decline to transfer to Pudukottai, the OP may be transferred to the middle station.

4. Per contra, the learned counsel for the respondent filed a counter and objected the petition. The respondent with her 2nd female child with the help of police, was accommodated at a Shelter Home run by PCVC of Anna Nagar, Chennai. The respondent is working as maid and cook in an orphanage at Chennai. The petitioner deserted the respondent and her 2nd daughter, who is 100% disabled person. So, she filed O.P.No.3644 of 2022 for divorce and also filed D.V.C.No.93 of 2022 before the competent Courts at Chennai. If the case is transferred to Pudukottai, the respondent will be put in irreparable hardship and she is unable to travel long distances with her disabled female child and also without any income. The respondent's convenience has to be considered. In support



Tr.C.M.P(MD)No.475 of 2024

of the argument, the learned counsel for the respondent relied on the decision of the **Hon'ble Supreme Court** reported in **2022 Live Law (SC) 627 (N.S.V.Aishwarya vs. A.S.Saravana Karthik Sha)**.

5. Submissions of both sides and citations are considered. The petitioner and the respondent are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the petition for divorce against the husband on the grounds of cruelty and the same is pending as O.P.No.3644 of 2022 before the I Additional Family Court, Chennai. The petitioner's reason for transfer is that he is maintaining two children and his physically disabled father and finds it difficult to travel Chennai with his meager income. The respondent states that she is working as a maid and cook in an orphanage at Chennai and living with her 2nd daughter, who is 100% disabled person. Their 2nd daughter 100% disabled person is known from the additional typed set filed by the petitioner. It is well settled proposition of law, 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 submission of transfer to the middle place is rejected as it is not reasoned



Tr.C.M.P(MD)No.475 of 2024

and both parties have to travel. 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 petitioner/husband is liable to be dismissed.

6. In the result, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

20.11.2024

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

To

- 1.The I Additional Family Court,
Chennai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P(MD)No.475 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.C.M.P(MD)No.475 of 2024
and
C.M.P(MD)No.11076 of 2024

20.11.2024