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Tr.C.M.(MD)No.494 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/02/2024

CORAM

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

Tr.CMP (MD) No.494 of 2023

and

CMP (MD) No.10632 of 2023

J.Rajkumar : Petitioner/Petitioner

Vs.

J.Lakshmi Priya : Respondent/Respondent

PRAYER:-Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to pass an order to withdraw the case in HMOP No.1457 of 2022 on the file of the Family Court, Madurai and transfer the same to the Principal Subordinate Court, Trichy and try along with the case in HMOP No.121 of 2023 and pass such further or other orders.

For Petitioner : Mr.S.Krishnan

For Respondent : Mr.M.Ananth Kumar

O R D E R

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw the case in HMOP No.1457 of 2022 on the file of the Family Court, Madurai and transfer the same to the Principal Subordinate Court, Trichy and try along with the case in HMOP No.121 of 2023.



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2. The facts in brief:-

The marriage between the husband and wife took place on 21/06/2010 at Neethipathi Soundarapandian Gnanasoundari Marriage Hall, Thirupparankundram, Madurai as per their customary rites. At the time of marriage, sufficient sridhana articles were provided, apart from jewels. The marriage expenses were also shared by both sides. After the marriage, they started living in Coimbatore, where the husband is working in a private company. Out of the wedlock, a female child was born on 05/10/2011. Thereafter, due to matrimonial dispute, they were living separately. In spite of repeated attempt made by the elder of the family members, there was no possibility of reunion. In the meantime, the wife filed HMOP No.1457 of 2022 before the Family Court, Madurai seeking divorce and now it is pending for adjudication. So also, the husband filed a petition in HMOP No.121 of 2023 on the file of the Principal Sub Court, Trichy seeking the relief of restitution of conjugal rights. It is also pending for adjudication.

3.This petition is filed by the husband seeking transfer of the case in HMOP No.1457 of 2022 on the file of the before the Family Court, Madurai filed by the wife seeking divorce on the ground that now his daughter is



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living with him and studying in Bangalore. So he finds difficulty to attend the Family Court at Madurai. Hence seeks transfer of the petition filed by the wife to the Principal Sub Court, Trichy to be tried along with HMOP No.121 of 2023 filed by him seeking the relief of restitution of conjugal rights.

4.Heard both sides.

5.The husband filed HMOP No.121 of 2023 on the file of the Principal Subordinate Court, Trichy, seeking restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955. The wife also filed HMOP No. 1457 of 2022 before the Family Court, Madurai seeking divorce and it is also stated to be pending. Pending both proceedings, this petition is filed by the husband on the ground that after the marriage, they were living in Trichy. But the respondent's mother took the respondent to Madurai. Thereafter, did not allow to live with him. She was visiting the daughter frequently. Later, he was threatened by the brother of the respondent. Now he is living in Bangalore with his child. Since he is in Bangalore, he is not in a position to appear before the Family Court, Madurai, regularly.



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8. But this fact cannot be taken into account at this stage. In respect of matrimonial proceedings, the convenience of the wife is a parameter. If the petitioner wants, he can get the proceedings pending on the file of the Principal Subordinate Judge, Trichy, in HMOP No.121 of 2023 to be tried along with the present subject petition HMOP No.1457 of 2022 to the Family Court, Madurai. Without doing the same, now this petition has been filed on the ground that he is experiencing difficulties in appearing the Court at Madurai. This contention cannot be accepted. On that account, the petition deserves dismissal.

9. In the result, this Transfer Civil Miscellaneous petition stands **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

23/02/2024

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

- 1.The Principal Sub Court,
Trichy.
- 2.The Family Court,
Madurai.
- 3.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA, J

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