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Tr.C.M.P(MD)No.500 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.10.2024

Pronounced on : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.500 of 2024

and

C.M.P(MD)No.11874 of 2024

Dhanalakshmi

... Petitioner

Vs.

Mariselvam

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the petition in O.P.No.1002 of 2024 on the file of the Family Court, Madurai to the Sub Court, Mudukulathur.

For Petitioner : Mr.M.Arikaran

For Respondent : Mr.P.Balamurugan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the O.P.No.1002 of 2024 on the file of the Family Court, Madurai and transfer the same to the file of the Sub Court, Mudukulathur.



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WEB COPY **2.The facts in brief:-**

The petitioner herein is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 01.09.2022 as per Hindu rites and customs. Out of wedlock, they are blessed with a male child. Due to some matrimonial disputes and misunderstandings, the petitioner is now residing with her parents at Kamuthi Taluk along with her son. Thereafter, the respondent filed the petition in O.P.No.1002 of 2024 before the Family Court, Madurai, for divorce.

3. The learned counsel for the petitioner has submitted that the petitioner is residing with her aged parents along with one year old child. The petitioner was sent to the parental home for delivery, thereafter, the respondent has not taken back the petitioner. The petitioner has filed the petition for restitution of conjugal rights before the Sub Court, Mudukulathur. The respondent has filed the petition for divorce at Family Court, Madurai. The petitioner finds it very difficult to attend the Court at Madurai by travel as she is taking care of her one year old child. The respondent is not maintaining them. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.



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4. The learned counsel for the respondent filed a counter and objected the petition. He further submitted that the petitioner used to lodge a police complaint against the respondent. There is a life threat to the respondent. The respondent is working at private concern with meager salary. The respondent is living hard in maintaining himself and his parents. The HMOP petition may be transferred to the middle station i.e., Aruppukottai, for which, he would undertake to pay the transit expenses to the petitioner.

5. Submissions of both sides considered. The respondent and the petitioner are husband and wife. Due to misunderstandings, they are living separately. In such circumstances, the petitioner states that since their elders took sincere efforts for reunion they went in vein and so, she filed the petition for restitution of conjugal rights before the Sub Court, Mudukulathur. The respondent filed the divorce petition before the Family Court, Madurai. It is well settled proposition of law by the Hon'ble Supreme Court, 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. Out of two CSRs produced by the respondent shows that one was filed by the petitioner for family quarrel and another was filed by third party, who is not stated to



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be a relative of the petitioner. The request for middle place is not much convenient for both. Moreover, the transfer is sought to the Sub Court and hence, the appearance of the respondent in each and every hearing need not necessary except material hearing. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, this Court is of the view that the present petition filed by the wife is to be allowed.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in O.P.No.1002 of 2024 on the file of the Family Court, Madurai, is hereby withdrawn and transferred to the file of the Sub Court, Mudukulathur, for disposal in accordance with law. The learned Judge, Family Court, Madurai, is directed to transmit the entire records pertaining to the case in O.P.No.1002 of 2024 to the 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.

02.12.2024

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



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To

- 1.The Family Court,
Madurai.
- 2.The Sub Court,
Mudukulathur.
- 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.500 of 2024
and
C.M.P(MD)No.11874 of 2024

02.12.2024