



Tr.C.M.P.(MD)No.592 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.592 of 2024
and
C.M.P.(MD)No.13910 of 2024

F.Dona Rajee

... Petitioner

Vs.

Stephen Lamater

... Respondent

Prayer : This Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw and transfer the I.D.O.P.No.29 of 2024 on the file of the Principal District Court, Theni, Theni District to the file of the Family Court, Tiruchirappalli, Tiruchirappalli District.

For Petitioner : Mr.C.Suresh Kannan

For Respondent : Mr.K.Samidurai

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Principal District Court, Theni, in I.D.O.P.No.29 of 2024 and transfer the same to the Family Court, Tiruchirappalli.



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2. Heard the learned counsel on either side.

3. It is not in dispute that the marriage between the petitioner and the respondent was solemnized on 24.01.2024. It is also not in dispute that the respondent has filed a petition in I.D.O.P.No.29 of 2024 seeking restitution of conjugal rights and the same is pending on the file of the Principal District Court, Theni.

4. The learned counsel appearing for the petitioner would submit that the petitioner has already filed a maintenance case and the same is pending in M.C.No.31 of 2024 before the Chief Judicial Magistrate Court, Tiruchirappalli. He would further submit that the petitioner is residing at Somarampettai, Tiruchirappalli District and she finds it difficult to travel from Tiruchirappalli to Theni to attend the hearings.

5. The learned counsel appearing for the respondent would submit that the respondent has been receiving threats from the petitioner's family and whereas, the learned counsel appearing for the petitioner has also raised similar allegations.



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6. In the case of N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha reported in 2022 Live Law (SC) 627, the Hon'ble Supreme Court has reiterated the position with generally, it is the wife's convenience, which must be looked at while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”, the bench observed.”

7. Considering the above facts and circumstances and also the fact that the petitioner is residing at Tiruchirappalli and taking note of the fact



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that maintenance case is also pending before the Chief Judicial Magistrate Court, Tiruchirappalli, this Court is of the view that the case in I.D.O.P.No.29 of 2024 is ordered to be withdrawn from the file of the Principal District Court, Theni, and transfer to the file of the Family Court, Tiruchirappalli. Accordingly, the learned Principal District Judge, Theni, is hereby directed to transmit the entire records in I.D.O.P.No.29 of 2024 to the file of the Family Court, Tiruchirappalli, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Judge of Family Court, Tiruchirappalli, is directed to take up the petition on file and proceed in accordance with law.

8. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

26.11.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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To

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1. The Principal District Court,
Theni.
2. The Family Court,
Tiruchirappalli.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
Tr.C.M.P.(MD)No.592 of 2024
and
C.M.P.(MD)No.13910 of 2024

Dated : 26.11.2024