



Tr.C.M.P.(MD).No.600 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Tr.C.M.P.(MD).No.600 of 2023
and C.M.P.(MD).No.13256 of 2023

Kameshwari

... Petitioner/Respondent

Vs.

Selvaraj

... Respondent/Petitioner

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.185 of 2023 from the file of the Sub-Court, Devakottai and transfer the same to the file of Family Court, Sivagangai.

For Petitioner : Mr.D.Venkatachalam

For Respondent : Mr.P.Aju Tagore

ORDER

Seeking transfer of H.M.O.P.No.185 of 2023 filed by the husband from the file of the Sub Court, Devakottai to the file of the Family Court, Sivagangai, this petition has been filed by the wife.



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2.The facts in brief:

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It is matrimonial proceedings. The marriage between the parties took place on 21.08.1994 at M.M.P.Senthilandavar Thirumana Mandapam, Sivagangai, following the Hindu rites and customs. At that time, the respondent was working in the Police Department. They have two children. Because of the misconduct on the part of the respondent herein, trouble arose between them. The petitioner was also beaten by the respondent, in which, one of her eyes got injured. Over which a case was also registered in Crime No.50 of 2019 for the offences punishable under Sections 294(b), 323 and 506(i) of IPC. After completing the investigation, final report was filed and taken cognizance in C.C.No. 1032 of 2022 by the learned Judicial Magistrate, Karaikudi. Because of the cruelty meted out by her she shifted her residence to Sivagangai. She also filed a petition in M.C.No.22 of 2019 for maintenance before the Family Court, Sivagangai. That was allowed. A sum of Rs.15,000/- was ordered to be paid as maintenance. Against which a revision was preferred by the respondent before this Court in Crl.R.C.(MD).No.44 of 2020, that was dismissed confirming the order of maintenance. But, the maintenance amount was not paid by the respondent till now. Seeking



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enforcement of the maintenance order, the petitioner filed Crl.M.P.No.41 of 2023 in M.C.No.22 of 2019 before the same Court. In the meantime, the respondent has also filed H.M.O.P.No.185 of 2023 before the Sub Court, Devakottai, seeking divorce.

3.The learned counsel for the petitioner would submit that the petitioner has to travel 65 kilometers to attend the Court proceedings in the above said H.M.O.P. for every hearing. Hence, seeking transfer of the same to the Family Court, Sivagangai, this petition has been filed.

4.Heard both sides.

5.It is matrimonial proceedings. The convenience of the wife alone is the deciding factor. Here there is no such issue, since the petitioner is living in Sivagangai town, whereas, the respondent is living in Kovilur, Karaikudi Taluk. But, M.C.No.22 of 2019 was ordered by the Family Court, Sivagangai. Enforcement petition is also pending before the Family Court, Sivagangai. But, the respondent filed H.M.O.P.No.185 of 2023 before the Sub Court, Devakottai. I find no valid ground raised by



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the respondent to dismiss the petition.

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6.Apart from that because of the assault made by the respondent her right eye is affected, for which, she has also taking treatment in Sivagangai. She has also produced the medical records in this regard. It is also stated that her vision is affected by 30%. Even though objection was made by the respondent, stating that there is no long distance between Devakottai and Sivagangai, considering the above said facts and circumstances and also considering that another matrimonial proceedings are pending before the Family Court, Sivagangai, the H.M.O.P.No.185 of 2023 filed by the respondent on the file of the Sub Court, Devakottai, is ordered to be withdrawn and transferred to the Family Court, Sivagangai, to try the case along with the pending proceedings filed by the petitioner.

7.Accordingly, this transfer civil miscellaneous petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

18.01.2024

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



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To

- 1.The Sub Judge, Devakottai.
- 2.The Judge, Family Court, Sivagangai.
- 3.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

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