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Tr.C.M.P(MD).No.622 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.622 of 2024
and
C.M.P(MD)No.14961 of 2024

M.Hemalatha : Petitioner

Vs.

R.Karthick : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.43 of 2024 on the file of the Sub Court, Aranthangi and transfer the same to the file of the Family Court, Namakkal or any other competent Court outside Karur District.

For Petitioner : Mr.S.Gurumoorthy

For Respondent : No Appearance

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the case in H.M.O.P.No.43 of 2024 on the file of the Sub Court, Aranthangi and transfer the same to the file of the Family Court, Namakkal or any other competent Court outside Karur District.



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2. It is evident from the records that the marriage between the parties was solemnized on 25.09.2019. It is not in dispute that the petitioner has filed a petition in H.M.O.P.No.97 of 2024, seeking divorce and the same is pending on the file of the Family Court, Namakkal. It is also not in dispute that the respondent has filed a petition in H.M.O.P.No.43 of 2024, seeking restitution of conjugal rights and the same is pending on the file of the Sub Court, Aranthangi.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Namakkal and after filing of the divorce petition, the respondent has filed a petition for restitution of conjugal rights and the petitioner finds it very difficult to travel to Aranthangi to attend the hearings.

4. Despite receipt of Court notice, the respondent has not turned up.

5. 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 :



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“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.”

6. Considering the facts and circumstances of the case and taking note of the facts that the petitioner is residing at Namakkal and the divorce petition filed by the petitioner in H.M.O.P.No.97 of 2024 is pending before the Family Court, Namakkal, this Court is of the view that the case in H.M.O.P.No.43 of 2024 is ordered to be withdrawn from the file of the Sub Court, Aranthangi and transferred to the file of the Family Court, Namakkal. The learned Subordinate Judge, Aranthangi, is hereby directed to transmit the entire records in H.M.O.P.No.43 of 2024 to the file of the Family Court, Namakkal, within a period of 10 days from the date of receipt of a copy of this order and on



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receiving the case bundle, the learned Judge, Family Court, Namakkal, is directed to take up the petition on file and proceed in accordance with law.

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

12.12.2024

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

To

- 1.The Sub Judge, Aranthangi.
- 2.The Judge, Family Court, Namakkal.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

DAS

Order made in
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12.12.2024