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Tr.C.M.(MD)Nos.628 and 629 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 28/03/2024

Date of Pronounced : 04/04/2024

CORAM

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

Tr.CMP(MD)Nos.628 and 629 of 2023
and
CMP(MD)Nos.14006 and 14007 of 2023

(1)Tr.CMP(MD)No.628 of 2024:-

Dr.R.Rubia : Petitioner/Respondent

Vs.

Cdr.Rashul Khan : Respondent/Petitioner

PRAYER:-Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to withdraw and transfer the petition in OS No.20 of 2023 pending on the file of the Family Court, Erode and transfer the same to the Family Court, Trichy.

For Petitioner : Mr.C.Dhanaseelan

For Respondent : Mr.B.N.Raja Mohamed

(2)Tr.CMP(MD)No.629 of 2024:-

1.Dr.R.Rubia
2.M.Rajith Ali
3.R.Regina Begum : Petitioners/Respondents

Vs.



Tr.C.M.(MD)Nos.628 and 629 of 2023

Cdr.Rashul Khan

: Respondent/Petitioner

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PRAYER:-Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to withdraw and transfer the petition in GWOP No.466 of 2023 pending on the file of the Family Court, Erode and transfer the same to the Family Court, Trichy.

For Petitioners : Mr.C.Dhanaseelan

For Respondent : Mr.B.N.Raja Mohamed

COMMON ORDER

Both petitions have been filed by the wife to transfer the petitions pending on the file of the Family Court, Erode to the Court of Family Judge, Trichy for joint trial.

2.The facts in brief:-

The marriage between the parties took place on 07/01/2016 at BHEL Township, Jamma Mosque, Hithayathul Islam Society, Trichy. After the marriage, they started living in the matrimonial home at Trichy. Out of the wedlock, a male was child born on 12/05/2018. In the meantime, there is a matrimonial dispute between them. So the wife started living with her parents at Trichy. Thereafter, there was no social interaction between family members of both sides. The husband visited lastly



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on 06/03/2023. But however, the husband quarreled with her father and insisted her to resign the job at ISRO, Trivandrum. Due to it, dispute continues between them. The husband started demanding dowry and treated the wife cruelly at the instigation of his family members, who are residing in Erode. So, she lodged a complaint on 25/05/2017 before the Station House Officer, Crime against Women Cell, Malvia Nagar, New Delhi. After the complaint, some conciliation took place and the husband came to Delhi and lived with the wife. Due to it, second child born. But at the intervention of his family members, once the husband started ill-treating, abusing and opposing to pursue her carrier in space Science. The efforts taken to resolve the matrimonial dispute ended in failure. Now the second son is living with the wife in Trichy and is studying UKG in a school. In the meantime, the husband filed GWOP No.466 of 2023 before the Family Court, Erode seeking declaration that he is the guardian of the minor child and the same is pending. In addition to the same, he also filed OS No.20 of 2023 before the Family Court, Erode, seeking restitution of conjugal rights and the same is also pending adjudication.

3.Now these petitions are filed by the wife seeking transfer of the cases namely GWOP NO.466 of 2023 and OS



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No.20 of 2023 on the ground that now she is working as Inspire Faculty Fellow" at Space Physics Laboratory in ISRO, Trivandrum. In weekend days, she visited the parents house at Trichy, where her minor son is staying. The husband is working in Indian Navy. Now he is employed at Chennai. The husband parents are residing in Erode, whereas her parents are in Trichy. The parents of the wife have to travel Erode, which is more than 153 kms from their locality.

4.Heard both sides.

5.The learned counsel appearing for the respondent/husband would submit that he is ready to provide the transport expenses of the petitioners, even ready to arrange accommodation and AC Car. On that account, he made strong objection for transferring the matter. But this sort of contention cannot be raised and accepted.

6.In a matrimonial proceedings, the convenience of the wife is a parameter.

7.In view of the above, without going into other aspects, these Transfer Civil Miscellaneous petitions are



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allowed. Accordingly, OS No.20 of 2023 and GWOP No.466 of 2023 pending on the file of the Family Court, Erode stand transferred to Family Court, Trichy. The Transferee Court is directed to transmit the case papers to the Family Court, Trichy, within a period of four weeks from the date of receipt of a copy of this order. After receiving the records, the Family Court, Trichy may assign new number and conduct the trial, after issuing notice to the parties for appearance and dispose the cases in accordance with law.

8.With the above-said directions, these Transfer Civil Miscellaneous Petitions stand **allowed.** However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

04/04/2024

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

1.The Family Court,
Erode.

2.The Family Court,
Trichy.

3.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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