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Tr.C.M.P(MD)No.720 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.08.2024

Pronounced on : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.720 of 2023

and

C.M.P(MD)No.16111 of 2023

Muruga Perumal Raja

... Petitioner

Vs.

Jenifer

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in S.M.O.P.No. 14 of 2023 filed before the District Judge, Srivilliputhur (presently pending at Additional District Judge, Virudhunagar) and transfer the same to any other Court in Madurai.

For Petitioner : Mr.S.Veluchamy

For Respondent : Mr.S.S.Thesigan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw S.M.O.P.No.14 of 2023 on the file of the learned Additional District Judge, Virudhunagar and transfer the same to any other Court in Madurai.



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2. The petitioner is the husband of the respondent. Their marriage was solemnized on 23.08.2012 at Virudhunagar. Out of wedlock, they were blessed with a daughter. Due to misunderstanding, they are living separately. The respondent without any valid reason filed the petition for divorce.

3. The learned counsel for the petitioner has submitted that the petitioner is a resident of Nagapattinam and he has been working in New Zealand and he is unable to attend the Court. In order to harass the petitioner the respondent has filed a petition for divorce against the petitioner. The trial Court has been entertaining the request of the respondent in a biased manner against the petitioner. So, the petitioner has filed this petition for transfer of S.M.O.P.No.14 of 2023 from the file of the learned Additional District Judge, Virudhunagar to any other Court in Madurai.

4. Per contra, the learned counsel for the respondent filed a counter and objected the petition. He would further submit that the respondent was harassed by the petitioner and her married life was entirely collapsed. The petitioner is money minded and he used the respondent as



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a tool for money earning and for sexual relationship and thereafter, the respondent was forced to leave the matrimonial home. The respondent is now jobless and she is depending on her mother, who is a heart patient. The petitioner filed this petition with a false allegation to drag on the main petition proceeding, which is pending for cross-examination of P.W.1. So, the petition may be dismissed.

5. Submissions of both sides considered. The petitioner and the respondent are husband and wife, who belong to different religions. Due to misunderstanding, they are living separately. In such circumstances, the respondent filed the petition for divorce before the Additional District Court, Virudhunagar. At this stage, the petitioner filed this petition. Since the petitioner also leveled allegation of biased proceedings in this transfer petition, remarks were called for from the trial Court. The trial Court submitted remarks denying the allegations and it is also revealed from remarks that P.W.1 was examined in the main petition and at the time of cross-examination, the petitioner has filed this transfer petition. It is well settled proposition of law, whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience



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shall be given preference. The submission of transfer to Madurai is not acceptable as it is not reasoned and both parties have to travel. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases, I am of the view that the present petition filed by the petitioner/husband is liable to be dismissed, however with a direction.

6. In the result, this Transfer Civil Miscellaneous Petition is dismissed. The learned Additional District Judge, Virudhunagar, is directed to dispose of the petition in S.M.O.P.No.14 of 2023 on merits within a period of five months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

12.11.2024

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



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To

- 1.The Additional District Judge,
Virudhunagar
- 2.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.720 of 2023
and
C.M.P(MD)No.16111 of 2023

12.11.2024