



TR.C.M.P(MD).No.756 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.01.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

**TR.C.M.P(MD)No.756 of 2023
and
C.M.P(MD)No.17019 of 2023**

1.C.Divakar
2.Subathra
3.Swathi Rathna

... Petitioners

Vs

Muthurathi

... Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in D.V.C.No.5 of 2020 on the file of the learned Judicial Magistrate Court No.1, Thirunelveli and transfer the same to the some other competent court within the Madurai District.

For Petitioners : Mr.A.Arul Jenifer

For Respondent : Mr.R.Anand
for Mr.S.Bharathi



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ORDER

This Transfer Civil Miscellaneous Petition is filed to withdraw the petition in D.V.C.No.5 of 2020 on the file of the learned Judicial Magistrate Court No.1, Thirunelveli and transfer the same to the some other competent court within the Madurai District.

2.The facts in brief is that D.V.C.No.5 of 2020 was filed by the respondent herein before the learned Judicial Magistrate No.I, Tirunelveli, which is stated to be pending. Similarly, she also filed H.M.O.P.No.337 of 2018 before the Family Court, Tirunelveli for divorce. The first petitioner was working as a Senior Lecturer at CSI Dental College, Madurai, now working in Velammal Hospital, Madurai. The respondent was working as an Assistant Commissioner, Commercial Tax, Trichy and now working in Madurai. In the H.M.O.P. proceedings, the matter was referred to Mediation. Eventhough the first petitioner was willing for reunion, the respondent made objections. Divorce was granted by order dated 02.07.2019.



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3. D.V.O.P.No.5 of 2020 was filed under Section 12 of the Domestic Violence Act, before the learned Judicial Magistrate No.1, Tirunelveli in December, 2019. Again the matter was referred to Mediation. There was a compromise between the parties by which they agreed to live together and the respondent agreed to withdraw the complaint. An agreement was entered into between them on 16.04.2021 and C.R.P.(MD)No.1403 of 2022 was filed to quash the proceedings. But it was disposed of with a direction to complete the enquiry within four months from the date of receipt of a copy of the order.

4. Learned counsel for the petitioners submitted that the respondent's father is a practicing advocate in Tirunelveli and attached to Tirunelveli Bar association. So the advocates are not appearing for him. The second petitioner, the mother is an aged widow. The third petitioner is a married sister. They find it very difficult to appear before the Magistrate Court. The respondent is not interested in getting disposal. On that account, this petition is filed seeking transfer.

5. Heard both sides.



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6. The grounds on which this petition came to be filed is completely out of place and cannot be encouraged at all. When DVOP proceedings are initiated, the appearance of the parties are not required as indicated by the decision of the Hon'ble Co-ordinate Bench of this Court in C.R.P(MD)No.1405 of 2021 dated 01.12.2022. So the contention on the part of the petitioner that the respondent is interested only in dragging the matter without any progress, using the professional practice of respondent's father, is absolutely unbelievable and unacceptable also.

7. As mentioned in the petition, it is seen that there was a compromise reached between the parties by the memo dated 16.04.2021, but what happened after that is not stated by the petitioner. But the learned counsel for the respondent would submit that enquiry is already over. The matter is posted for arguments. Later it was reopened for clarification. At that time, this present petition is filed. Now it is posted to 31.01.2024 for filing the written statement of the respondent. This petition was filed on 28.11.2023. On 22.11.2023, the matter was posted for clarification. Without discussing the above said factual aspect, this petition is filed, by making untenable allegations against the father of the



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respondent. It is further seen that the written arguments is also filed by the petitioner before the enquiry Court on 23.01.2024, referring the compromise reached between the parties.

8. In the light of the above said decision, I find absolutely no reason to transfer the enquiry process. As indicated in C.R.P.(MD)No. 1403 of 2021, the order must be complied by the trial Court.

9. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

30.01.2024

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

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G.ILANGOVA, J.



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