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C.R.P.(MD)No.757 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/01/2024

CORAM

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

Tr.CMP (MD) No. 757 of 2023

and

CMP (MD) No.17059 of 2023

Kavitha : Petitioner/Respondent

Vs.

Asaithambi : Respondent/Petitioner

PRAYER:-Civil Miscellaneous Petition is filed under section 151 of the Civil Procedure Code, to withdraw and transfer the petition in HMOP No.58 of 2023 on the file of the Sub Court, Uthamapaayam and transfer the same to the file of the Family Court, Madurai and pass such further or other orders.

For Petitioner : Mr.V.S.Kumara Guru

For Respondent : No appearance

O R D E R

This Civil Miscellaneous Petition is filed seeking transfer of the petition in HMOP No.58 of 2023 filed by the respondent on the file of the Sub Court, Uthamapalayam to the Family Court, Madurai.



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2. The facts in brief:-

The marriage between the husband and wife took place, on 05/11/2006 at Sri Veerachinnammal Temple, Chinnamanur, Theni District. At the time of marriage, sufficient seethana and other house-hold articles were provided to the wife by her parents. Due to the wedlock, they begotten two child both male and female. After the marriage, dispute arose between them. The husband did not take care of the family. He is in the habit of consuming alcohol regularly and also having illicit relationship with one Pandiammal. On 01/02/2021, the wife was driven out of the matrimonial home along with two children. So she made a complaint before the All Women Police Station, Thallakulam, on 26/06/2021. In the enquiry, the husband given an undertaking that he will handed over the jewels and other articles belongs to the wife. In the meantime, the husband filed HMOP No.58 of 2023 on the file of the Sub Court, Uthamapalayam, seeking restitution of conjugal rights. The wife filed HMOP No.533 of 2023 before the Family Court, Madurai for divorce. She has also filed MC No.137 of 2023 before the same court.

3.This petition is filed by the wife seeking transfer of the case in HMOP No.58 of 2023 on the ground that she has to travel Uthamapalyam to attend the court, which is more than 100 kms from her locality.



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4. Even though notice is served upon the respondent/husband, he has not chosen to appear before this court either in person or through advocate. So after hearing the learned counsel appearing for the petitioner, this order is passed.

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

6. So without going into other aspects, this civil miscellaneous petition allowed. Accordingly, H.M.O.P.No. 58 of 2023 on the file of the Sub Court, Uthamapalayam stands transferred to the Family Court, Madurai. The Sub Court, Uthamapalayam is directed to transmit the case papers to the Family Court, Madurai, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above-said directions, the Transfer Civil Miscellaneous Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

29/01/2024

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

- 1.The Sub Court,
Uthamapalayam
Theni District
- 2.The Family Court,
Madurai.



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G.ILANGOVAN, J

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