



Tr.C.M.P.(MD)No.539 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.01.2025

Pronounced on : 24.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P.(MD)No.539 of 2024

and

C.M.P.(MD)Nos.12837 and 18357 of 2024

Sheen S P Belsylin

... Petitioner

Vs.

Sam I G Daya

... Respondent

Prayer : The Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C., to withdraw the case in D.O.P.No.412 of 2024 before the Family Court of Kanyakumari District at Nagercoil and transfer the same to the file of the II Additional Family Court at Chennai to have a joint trial with the proceedings in M.C.No.71 of 2024, for disposal.

For Petitioner : Mr.G.Aravinthan

For Respondent : Mr.C.T.Perumal



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ORDER

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The Transfer Civil Miscellaneous Petition is filed to withdraw the case from the file of the Family Court, Kanyakumari District at Nagercoil, in D.O.P.No.412 of 2024 and transfer the same to the file of the II Additional Family Court, Chennai.

2. It is evident from the records that marriage between the petitioner and the respondent was solemnized on 11.10.2021. It is not in dispute that at the time of marriage, the petitioner was working as a Quality Manager at Padhar Hospital, Madhya Pradesh and whereas, the respondent was working as a teaching faculty in a Hotel Management and Catering Institution at Trivandrum. It is also not in dispute that the petitioner has laid maintenance claim in M.C.No.71 of 2024 and the same is pending on the file of the II Additional Family Court, Chennai and that the respondent has filed a petition in D.O.P.No.412 of 2024 seeking restitution of conjugal rights and the same is pending on the file of the Family Court, Nagercoil, Kanyakumari District.

3. The case of the petitioner is that after filing of the maintenance



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petition, as a counter blast, the respondent has initiated proceedings for restitution of conjugal rights at Nagercoil, that the petitioner is now working in Chennai and is also residing at Nungambakkam, Chennai, that the petitioner finds it difficult to travel from Chennai to Nagercoil which is about 750 kms and she has to travel totally 1500 kms to attend the hearings, that the petitioner cannot travel alone and she need to travel with either of her aged parents and she has to incur expenses for boarding and lodging and that therefore the petitioner was constrained to file the above transfer petition.

4. The respondent has filed a counter affidavit raising objections and further stated that the petitioner along with her parents were residing at 587/1, Chandrasekar, Ward 15, Betul District, Madhya Pradesh, that the petitioner is also working in Ford Hospital and Research Centre, Patna, Bihar and she is in the habit of shifting here and there in search of new avenues, that the respondent is the only son now residing with his parents, that the respondent's father is now aged 76 years and is a cardiac patient, that the respondent's father underwent Angioplasty and stenting T proximal lad done in 2021 and is under continuous medical supervision,



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that the respondent's mother is aged about 69 years and is a diabetic and suffering from hypertension, that inspite of the high handed attitude of the petitioner, the respondent is still ready and willing for re-union and hence, filed a petition in D.O.P.No.412 of 2024 for restitution of conjugal rights and that therefore if the case is transferred to Chennai, it will be very difficult for the respondent to travel leaving his parents at home.

5. The learned counsel appearing for the respondent would submit that the respondent has already filed a transfer petition in Tr.C.M.P.(MD) No.1239 of 2024 before the Principal Seat to transfer the maintenance case from the file of the Family Court, Chennai to the file of the Family Court, Nagercoil and the same is pending.

6. The main contention of the petitioner is that the petitioner is now working and residing at Chennai but whereas, according to the respondent, the petitioner is now working in Madhya Pradesh and as such, the question of transferring the case to Chennai does not arise at all.

7. No doubt, the learned counsel appearing for the petitioner has



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produced a copy of the communication sent by Ford Hospital and Research Centre, Patna dated 02.08.2024, wherein, it has been stated that the petitioner will be temporarily associated with the Quality and Administration Department at Ford Hospital and Research Centre Pvt. Ltd. for a period of 60 days, starting from 09th September 2024 to 09th November 2024. The learned counsel would further submit that the petitioner, after completing her temporary work at Madhya Pradesh, has already returned to Chennai and is now working in Chennai.

8. The learned counsel appearing for the petitioner has also produced a copy of the lease deed entered into between the petitioner and one D.Thambiah, S/o.Duraisamy in respect of a premises in first floor bearing No.121/A, New No.46, Subburayan Main Street, Nammalwarpet, Chennai-12 and that the above rental agreement would go to show that the petitioner is residing at Chennai. But the learned counsel appearing for the respondent would contend that the petitioner has not raised any pleadings with regard to the above documents in the affidavit filed in support of the transfer petition and as per the instructions from the respondent, the petitioner is still working in Madhya Pradesh.



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9. As rightly contended by the learned counsel appearing for the respondent, though the petitioner has produced the letter from the Ford Hospital and Research Centre, Patna that she was working in their hospital till 09th November 2024, she has not produced any material to show that she had joined service at Chennai. Though the learned counsel appearing for the petitioner would reiterate their contention that the petitioner is working at Chennai, they have not produced any iota of evidence to substantiate the same. Moreover, as rightly pointed out by the learned counsel appearing for the respondent, the lease deed was shown to be executed before notary public on 01.09.2024 and admittedly, the present transfer petition came to be filed on 05.09.2024.

10. No doubt, as rightly pointed out by the learned counsel appearing for the petitioner, the petitioner has given address in the cause title as shown in D.O.P. filed by the respondent, according to which, she is residing at Door No.12/28 Ground Floor, Deivanayagam Street, Nungambakkam, Chennai. But the fact remains, the petitioner has entered into lease deed on 01.09.2024 itself even before filing of the present transfer petition. Admittedly, the petitioner has nowhere stated in her



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affidavit that she had shifted her residence from Nungambakkam to Nammalwarpet, Chennai and that the petitioner has not offered any reason or explanation for not disclosing the above material facts.

11. As rightly contended by the learned counsel appearing for the respondent, if the petitioner is still working in Madhya Pradesh, no purpose will be served in transferring the case to Chennai.

12. Considering the above facts and circumstances and taking note of the fact that the petitioner has come with unclean hands by suppressing the material facts, this Court is not inclined to grant the relief claimed. Hence, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed.

13. In the result, this Transfer Civil Miscellaneous Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

24.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

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To

1. The Judge, Family Court,
Kanyakumari District at Nagercoil.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Tr.C.M.P.(MD)No.539 of 2024
and
C.M.P.(MD)Nos.12837 and 18357 of 2024

Dated : 24.01.2025