NC: 2023:KHC:36112
CP No. 317 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2023

BEFORE

THE HON'BLE MR JUSTICE S.G.PANDIT

CIVIL PETITION NO. 317 OF 2023

BETWEEN:

SMT. ASHARANI,
W/O PRADEEP M H
D/O T R BASAVARAJU,
AGED ABOUT 34 YEARS,
R/AT KUVEMPU NAGARA,
TAVAREKERE,
MAGADI MAIN ROAD,
BENGLAURU SOUTH-562 130.

...PETITIONER

(BY SRI. ROHAN S., ADV.)

AND:

SRI. PRADEEP M.H.
S/O HANUMEGOWDA,
AGED ABOUT 35 YEARS,
MALLARAJAPURA GRAMA,
KASABA HOBLI,
NAGAMANGALA TALUK-571 432.

...RESPONDENT

(BY SRI. HARISH PRABHU S., ADV.)

Digitally signed by A K CHANDRIKA
Location: High Court of Karnataka

THIS PETITION IS FILED UNDER SECTION 24 OF CPC, PRAYING TO A) WITHDRAW THE MC NO.51/2019 PENDING ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC AT NAGAMANAGALA FILED BY THE RESPONDENT AGAINST THE PETITIONER U/S 9 OF THE HINDU MARRIAGE ACT AND TRANSFER THE SAME TO THE PRINCIPAL FAMILY COURT AT NYAYADEGULA, BENGALURU AND DISPOSE THE SAME IN ACCORDANCE WITH LAW AND ETC.

THIS PETITION, COMING ON FOR ADMISSON, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner, wife of respondent is before this Court under Section 24 of CPC with a prayer to transfer M.C.No.51/2019 filed by the respondent-husband under Section 9 of Hindu Marriage Act, 1955 pending on the file of the Senior Civil Judge and JMFC, Nagamangala to the Principal Family Court, Nyayadegula at Bengaluru for disposal.

2. Heard learned counsel Sri.Rohan S for Sri.Balakrishna M.R. for petitioner and learned counsel Sri.Harish Prabhu for respondent. Perused the petition papers.

3. Learned counsel for the petitioner would submit that marriage of the petitioner and respondent was solemnized on 09.03.2014 and from the marriage, they have one child aged about 7 years. It is submitted that the petitioner and respondent are living separately and the petitioner initiated Crl.Misc.No.132/2019 under Section 12 of Domestic Violence Act, 2005 before MMTC-II Court at Bengaluru. It is submitted that the respondent-husband has initiated M.C.No.51/2019 under Section 9 of Hindu Marriage Act,

1955 for restitution of conjugal rights before the Senior Civil Judge Court at Nagamangala. Since the petitioner is not working and she has no income of her own, and she is suffering from cardiac problems, it is prayed for transfer of M.C.No.51/2019 from the Court of Senior Civil Judge, Nagamangala to Family Court at Bengaluru.

4. Per contra, learned counsel for respondent appearing through video conference would submit that the respondent has no objection for transfer of proceedings from Nagamangala to Bengaluru.

5. In a petition under Section 24 of CPC for transfer of proceedings, more particularly in matrimonial cases, the Court shall have to take note of hardship and inconvenience that would be caused to the wife along with social and financial status of the parties. In the instant case, it is the case of the petitioner/wife that she has no independent income of her own and she is depending on her parents' income for her livelihood and she has to look after her minor child. It would be difficult for the petitioner/wife to travel from Bengaluru to Nagamangala to attend the proceedings in

M.C.No.51/2019. If the prayer of the petitioner is not allowed, petitioner would suffer more hardship and inconvenience.

6. Taking note of the above, the following order:

The petition filed under Section 24 of CPC is allowed, directing transfer of M.C.No.51/2019 pending on the file of Senior Civil Judge, Nagamangala to Principal Judge, Family Court, Nyayadegula at Bengaluru, for disposal in accordance with law.

Sd/-
JUDGE

MPK
CT:bms
List No.: 1 Sl No.: 53