



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.09.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Tr.CMP(MD)No.40 of 2021

and CMP(MD)No.779 of 2021

WEB COPY

Ramya

... Petitioner/Respondent

-Vs-

Bhoopathymohan

... Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw the case in H.M.O.P.No.212 of 2019 on the file of the Sub Court, Uthamapalayam and transfer the same to the file of the Family Court, Madurai and be tried along with M.C.No.185 of 2019 on the file of Honourable Family Court Madurai.

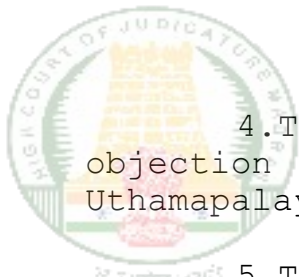
For Petitioner : Mr.K.Prabhu

For Respondent : Mr.P.Tambidurai

ORDER

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Sub Court, Uthamapalayam in HMOP No.212 of 2019 and transfer the same to the file of Family Court, Madurai.

2.The learned counsel for the petitioner would submit that the petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 10.06.2018. Out of the wedlock, they have been blessed with a boy baby, who is 1 ½ years old child. After the birth of the child, the respondent had frequently harassed the petitioner and also taken away 30 sovereigns of gold jewels belonging to the petitioner. The respondent also developed illicit intimacy with one Thangaponnu. Due to the said facts, the petitioner came out of her matrimonial home. In the meanwhile, the respondent has filed a petition for divorce in HMOP No.212 of 2019 on the file of the Sub Court, Uthamapalayam. Thereafter, the petitioner has filed a maintenance petition in M.C.No.185 of 2019 on the file of the Family Court, Madurai. The petitioner is living at the mercy of her parents, who are aged persons and therefore, she finds it difficult to travel from Uthamapalayam to Madurai with her 1 ½ years old child. The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration of the inconvenience and the comparative hardship faced by the petitioner/wife and child, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, the present petition has been filed seeking for transfer of the case to the Family Court, Madurai.



4.The learned counsel for the respondent submits there is no objection for transferring the case from the file of Sub Court, Uthamapalayam to the file of Family Court, Madurai.

5.The Hon'ble Apex Court in the case of **Vaishali Shridhar Jagtap.vs. Shridhar Vishwanath Jagtap** reported in **(2016)14 SCC 356** held that while deciding the transfer of matrimonial proceedings, comparative hardship faced by the wife has to be taken into account. Further, in the case of **Amitha Shah vs- Virendar Lal Shah**, the Hon'ble Supreme Court reported in **(2003)10 SCC 609** held that the convenience of the wife must be taken into account while deciding the petition for transfer.

6.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel on either side, HMOP No.212 of 2019 is withdrawn from the file of Sub Court, Uthamapalayam and transferred to the file of Family Court, Madurai for disposal as per law. The Sub Court, Uthamapalayam, is directed to transmit the papers to the file of the Family Court, Madurai, forthwith. The Family Court, Madurai is directed to dispose H.M.O.P.No.212 of 2019 on merits and in accordance with law as expeditiously as possible.

7.In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Court, Uthamapalayam.

2.The Family Court, Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-28116[F] dated 03/09/2021)

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