



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.67 of 2020

and

C.M.P. (MD)No.1161 of 2020

WEB COPY

B.Suganya

... Petitioner/Respondent

-vs-

S.Karthikeyan

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP No. 202 of 2019 on the file of the Principal Subordinate Judge, Trichy and transfer the same to the file of the Principal Subordinate Judge, Thanjavur.

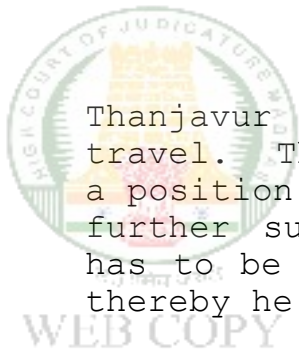
For Petitioner : Mr.V.Chandrasekar

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No. 202 of 2019 on the file of the Principal Subordinate Judge, Trichy and transfer the same to the file of the Principal Subordinate Judge, Thanjavur

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 09.02.2017 at Thanjavur. After marriage the petitioner and the respondent started their marital life at the house of the respondent at Trichy. The respondent was not dutiful husband and he indulged in activities which has not created any conducive atmosphere to lead a happy marital life. The respondent/ husband ill-treated the petitioner and always used to quarrel with her for petty reasons. Later he also physically abused her and had driven her out of the matrimonial home. The petitioner was under the found hope that he will mend his ways. But days have gone and he has not changed his attitude. Despite the steps taken by the well wishers of the family to join the respondent the petitioner was not permitted to enter the matrimonial home. In the meantime the respondent has filed a petition for divorce in HMOP No. 202 of 2019 on the file of the learned Principal Subordinate Judge, Trichy . The intention of the respondent is to get exparte divorce decree. The respondent has not maintained the petitioner and he has not even spent single paisa to the maintenance of the petitioner. The petitioner has to travel all the way from



Thanjavur to Trichy to attend the Court which is about 140kms of travel. The parents of the petitioner are old and they are not in a position to accompany the petitioner to travel to Trichy. He would further submit that comparative hardship faced by the petitioner has to be taken into account while deciding the transfer petition, thereby he seeks transfer of the case from Trichy to Thanjavur.

3. Heard the learned counsel for the petitioner. Private notice served, proof filed. This Court ordered the counsel for the petitioner to serve notice on the counsel for the respondent appearing before the lower Court and name printed in the cause list, none appeared on behalf of the respondent.

4. The Hon'ble Apex Court in the case of ***Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap*** reported in (2016)14 SCC 356 has 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 has held that ***the convenience of the wife must be taken into account while deciding the petition for transfer.***

5. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No. 202 of 2019 is withdrawn from the file of Principal Subordinate Judge, Trichy and transferred to the file of Principal Subordinate Judge, Thanjavur for disposal as per law. The Principal Subordinate Judge, Trichy, is directed to transmit the papers to the file of the Principal Subordinate Judge, Thanjavur. The Principal Subordinate Judge, Thanjavur, is directed to dispose HMOP No.202 of 2019 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

aav



To:

- 1.The Principal Subordinate Judge, Trichy
- 2.The Principal Subordinate Judge, Thanjavur

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+1 CC to MR.V.CHANDRASEKAR, Advocate(SR-26326[F] dated 16/08/2021)
Tr.C.M.P. (MD) No.67 of 2020
and
C.M.P. (MD)No.1161 of 2020
13.08.2021

MGJ(25.08.2021) 3P 4C