



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No. 92 of 2021

and

C.M.P (MD) No.1970 of 2021

WEB COPY

T.Kirubagiri

... Petitioner/Respondent

-Vs-

K.Shanmuganathan

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.13 of 2021 on the file of the learned Family Court, Dindigul and transfer the same to the file of the learned Family Court, Madurai.

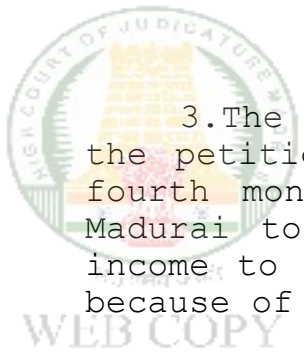
For Petitioner : Mr.C.M.Arumugam

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.13 of 2021 from file of the learned Family Court, Dindigul to the file of the learned Family Court, Madurai.

2.The learned counsel for the petitioner submits that the marriage between the petitioner and the respondent was solemnized on 15.12.2019 at Sri Sithi Vinayagar Temple, Raildai, Dindigul District in the presence of the family members, friends and relatives according to hindu customs and rites. It was an arranged marriage. After the marriage, the petitioner and the respondent were living at the matrimonial home at Dindigul. Thereafter, the petitioner became pregnant and she came to her parental home and she was blessed with a girl child through caesarean on 09.09.2020. During the caesarean, the child suffered from vision defect and the petitioner was constrained to stay at her parental home at Madurai for taking treatment to the child. However, all of a sudden, the petitioner received a legal notice on 12.12.2020 containing several allegations against her. Whiles, the respondent came to the house of her parents and abused them. The respondent and his parents started to harass her physically and mentally. However, she was taking treatment for her child. In the meanwhile, the respondent filed H.M.O.P.No.13 of 2021 before the learned Family Court, Dindigul, seeking the relief of dissolution of marriage and she came to know about the filing of aforesaid petition, when she received a notice on 20.01.2021.



3.The learned counsel for the petitioner further submits that the petitioner delivered a child through cesarean and the baby is fourth months old. Hence, it is very difficult to travel from Madurai to Dindigul. The petitioner is not having any permanent income to travel for all the hearings and she is under depression because of the attitude of the respondent.

4.The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration the convenience and the comparative hardship faced by the petitioner/wife had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

5.Though the respondent has been served and his name has been printed in the cause list, none appears on behalf of the respondent.

6.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 and moreso of the child must be taken into account while deciding the petition for transfer.***

7.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, H.M.O.P. No.13 of 2021 is withdrawn from the file of learned Family Court, Dindigul and transferred to the file of the learned Family Court, Madurai, for disposal as per law. The learned Family Judge, Dindiugl, is directed to transmit the papers to the file of the learned Family Court, Madurai, forthwith. The learned Family Judge, Madurai, is directed to dispose transferred H.M.O.P. No.13 of 2021 on merits and in accordance with law as expeditiously as possible.

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

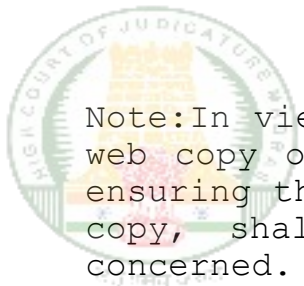
Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

WEB COPY

1. The Family Court,
Dindigul.

2. The Family Court,
Madurai.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-28766[F] dated 09/09/2021)

Tr.C.M.P. (MD) No. 92 of 2021

09.09.2021

RS (24.09.2021) 3P 4C