



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.86 of 2021 and
CMP(MD) .No.1812 of 2021

Gayadhri

... Petitioner / petitioner

-vs-

Jeyson Augustin Anand

... Respondent / Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 Code of Civil Procedure, to withdraw IDOP No.214 of 2020 on the file of the Family Court, Thirunelveli and to transfer the same to the Family Court at Cuddalore.

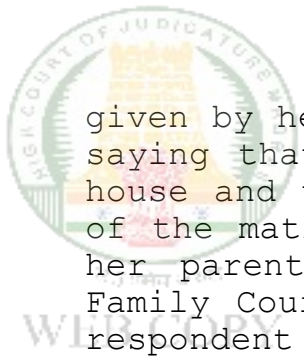
For Petitioner : Mr.P. Sesubalan Raja

For Respondent : No Representation

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in IDOP No.214 of 2020 on the file of the Family Court, Thirunelveli and to transfer the same to the file of Family Court at Cuddalore.

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 26.08.2019 at Palayamkottai, Tirunelveli District, as per the Christian Rites and Customs. He would further submit that the petitioner belongs to Hindu Religion and the respondent is a Christian and that the respondent's niece was the friend of the petitioner, through her they became friends, which resulted in marriage. After the marriage, the petitioner and the respondent started their matrimonial life at Thiruvannamalai, where the respondent was working. After some time, the attitude of the respondent towards the petitioner changed and later point of time, she came to know that he is addicted to Alcohol. The respondent used to suspect the fidelity of petitioner and further, he restricted her from going to temples and prevented her to go to Hindu Temple and taking foods



given by her Hindu neighbours. Further, he started to assault her saying that she had illicit relationship with the landlord of the house and unable to bear the harassment, she was forced to get out of the matrimonial home. Now, the petitioner is under the care of her parents and that she has filed DOP.No.1 of 2020 before the Family Court, Cuddalore, seeking divorce from the respondent. The respondent after receipt of notice, with a malafide intention filed IDOP.No.214 of 2020 before the Family Court, Thirunelveli, seeking restitution of conjugal rights. He would further submit that the respondent and the petitioner lastly resided at Thiruvannamalai and only with an intention of harassing the petitioner, the respondent has filed the present petition for restitution of Conjugal rights before the Family Court, Thirunelveli, which is his native place.

3. The learned counsel for the petitioner would further submit that the distance between Thirunelveli and Cuddalore is around 480 Kilometers and that the petitioner finds it difficult to travel from Cuddalore to Thirunelveli to attend each and every hearing in IDOP.No.214 of 2020 on the file of the Family Court, Thirunelveli. Since the parents of the petitioner are aged, they are not able to accompany the petitioner. He 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.

4. Heard the learned counsel for the petitioner. Despite service of notice and name being printed in the cause list, there is no representation for the respondent.

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 for the petitioner, IDOP.No. 214 of 2020 is withdrawn from the file of the Family Court, Thirunelveli and transferred to the file of Family Court, Cuddalore for disposal as per law. The Family Court, Thirunelveli, is directed to transmit the papers to the file of the Family Court, Cuddalore forthwith. The Family Court, Cuddalore is directed to club the case in IDOP.No.214 of 2020 along with D.O.P.No.1 of 2020 together and dispose the same 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 (AS)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

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 Family Court, Cuddalore.
2. The Family Court, Thirunelveli.

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