



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.82 of 2020

and

C.M.P. (MD)No.1693 of 2020

WEB COPY

G.Shree Reshma

... Petitioner

-vs-

B.Ashvanth

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the above HMOP No. 146 of 2019 filed by the respondent herein before the Subordinate Court, Tindivanam to the Subordinate Court, Palani.

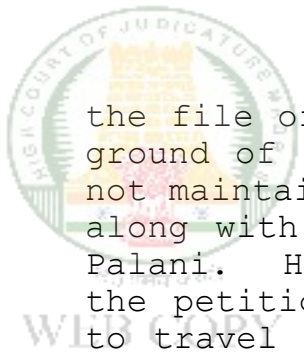
For Petitioner : Mr.C.Gangai Amaran

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the above HMOP No. 146 of 2019 filed by the respondent herein before the Subordinate Court, Tindivanam to the Subordinate Court, Palani.

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 26.05.2016 at Mailam Murugan Temple at J.P.Mahal, Thiruchitrambalam, Koot Road, Vanoor as per Hindu rites and customs. At the time of marriage the parents of the petitioner has given 30 sovereigns of gold jewels to the petitioner and five sovereigns of gold jewels to the respondent and out of the wedlock the petitioner and respondent was blessed with female child on 15.07.2017 and she was named as A.Shastiga, who is now 4 years old. He would also submit that the respondent is working as a lecturer in the Vinayagar Engineering College at Pondicherry and drawing a salary of Rs.30,000/- and thereafter he went to Chennai for further studies and getting a stipend of Rs.17,000/-. Informing the petitioner that the amount of Rs.17,000/- was not enough to run the family the respondent had left the petitioner and her child at her parental home at Palani. Thereafter the respondent did not take care of the petitioner and the child and did not send money for maintaining them, thereby the petitioner had lodged complaint before the District Social Welfare Officer, Palani on 17.09.2019 and the case has been referred to the Court of learned Judicial Magistrate, Palani. While so, the respondent had filed HMOP No. 146 of 2019 on



the file of the Sub Court, Tindivanam against the petitioner on the ground of cruelty. He would further submit that the respondent is not maintaining the petitioner and her child and now the petitioner along with her child is under the mercy of her age old persons at Palani. He would also submit that there is no body to accompany the petitioner to travel to Tindivanam. Further the petitioner has to travel all the way from Palani to Tindivam along with her four years old child, which is 356 kms and she has no place to stay at Tindivam. He would further submit that the this Court as well as the Honourable Apex Court taking into consideration the convenience and hardship suffered by the wife had ordered to transfer of petitions to Court which is convenient to the wife and thereby the present petition has been filed seeking transfer.

3. Heard the learned counsel for the petitioner. Private notice served, proof filed. 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***, reported in (2003)10 SCC 609 the Hon'ble Supreme Court has held that ***the convenience of the wife and moreso of the child 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. 146 of 2019 is withdrawn from the file of Sub Court, Tindivanam and transferred to the file of Sub Court, Palani for disposal as per law. The Sub Court, Tindivanam, is directed to transmit the papers to the file of the Sub Court, Palani forthwith. The Sub Court, Palani, is directed to dispose HMOP No.146 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 (CS I)

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Sub Assistant Registrar (CS)

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To:

- 1.The Sub Judge, Tindivanam
- 2.The Sub Judge, Palani

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