



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.92 of 2020

and

C.M.P. (MD) No.1947 of 2020

WEB COPY

Maharajothi

... Petitioner/Respondent

-vs-

Karuppasamy

... 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.170 of 2019 on the file of Sub Court, Kovilpatti and transfer the same to the file of Sub Court, Devakottai.

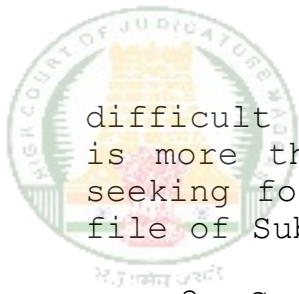
For Petitioner : Mr.J.Anandkumar

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No.170 of 2019 on the file of Sub Court, Kovilpatti and transfer the same to the file of Sub Court, Devakottai.

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 11.09.2008 as per the Hindu rites and customs. Thereafter due to employment the respondent set up the matrimonial home at Chennai. While at Chennai the respondent used to constantly harass her even for petty things and he used to abuse her. Since the respondent had no permanent job at Chennai he took the petitioner along with him to his native place at Kovilpatti. Even then he did not go for any job and the respondent slowly stopped caring for the petitioner. The petitioner being a dutiful wife was along with him. In the meantime out of wedlock the petitioner delivered two male children. Even thereafter the respondent did not care of the petitioner and the children and even sometime they were left without food, thereby the petitioner left the matrimonial home and started living with her age old parents. Despite several efforts taken by the elders and the well wishers of the family for their re-union the respondent did not take up the petitioner to his family, whereas he has filed the petition seeking divorce in HMOP No. 170 of 2019 before the Sub Court, Kovilpatti making certain false allegations against the petitioner. The petitioner is under the mercy of her parents she is living with her two small children and that she find it



difficult to travel all the way from Karaikudi to Kovilpatti which is more than 200 KM, thereby the present petition has been filed seeking for transfer from the file of Sub Court, Kovilpatti to the file of Sub Court, Devakottai.

3. Court notice sent to the respondent has been returned with an endorsement 'unclaimed'. Private notice on the respondent has been served. Thereafter this Court by an order dated 13.07.2021 had directed the petitioner to take substituted service by way of paper publication circulated at Thoothukudi District. The petitioner had taken substituted service. Despite notice, the respondent has not appeared before this Court. There is no representation for the respondent.

4. The marriage between the was solemnized on 11.09.2008 as per the Hindu rites and customs. The petitioner has lived with the respondent for few days at Chennai and thereafter came back to Kovilpatti. The petitioner being a lady has to travel all the way from the Karaikudi to Kovilpatti. Her parents are old and there is nobody to take care of her two small children.

5. 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 more so of the child must be taken into account and can transfer the case to the Court of the choice of the wife.

6. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.170 of 2019 is withdrawn from the file of Sub Court, Kovilpatti and transferred to the file of Sub Court, Devakottai, for disposal as per law. The Sub Court, Kovilpatti, is directed to transmit the papers to the file of the Sub Court, Devakottai, forthwith. The Sub Court, Devakottai, is directed to dispose HMOP No. 170 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 also closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To:

1.The Sub Court, Devakottai.

2.The Sub Court, Kovilpatti.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-3738[I] dated 21/02/2020)

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RK (23.08.2021) 3P 4C