



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.119 of 2020

and

C.M.P. (MD)No.2306 of 2020

WEB COPY

R.Saranya

... Petitioner

-vs-

P.K.Marthandan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w. 151 of the Code of Civil Procedure, to withdraw the case on the file of the II Family Court, Chennai in O.P.No.521 of 2020 and transfer the same to the Family Court, Madurai.

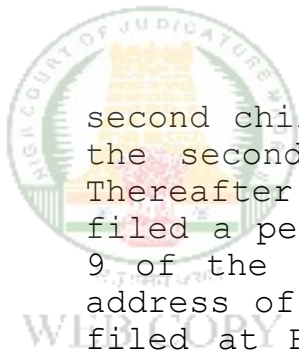
For Petitioner : Mr.G.Thiruvartselvan

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the II Family Court, Chennai in O.P.No.521 of 2020 and transfer the same to the Family Court, Madurai.

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 05.02.2015 at Pathirakaliamman Thirumana Mandapam, Vikramangalam, Madurai District as per Hindu rites and customs. At that time of marriage the parents of the petitioner have spent considerable money towards dowry and for other marriage expenses. The petitioner is a M.B.A., M.Phil graduate. At the time of marriage the respondent/husband was a railway employee. The petitioner and the respondent temporarily shifted their residence to Chennai and they were staying at police quarters situated at Kondithoppu, Chennai with the help of respondents cousin brother and after some time she got pregnant and she delivered a male child on 12.02.2016. After delivery the attitude of the respondent changed and he started harassing the petitioner and that he had compelled the parents of the petitioner to purchase a flat and thereafter the parents of the petitioner had also purchased a flat at Adinath Nagar, Kolathur Chennai vide sale deed dated 31.01.2018 in the name of both the petitioner and the respondent. Thereafter the attitude of the petitioner had become worse and he started harassing the petitioner. Meanwhile again the petitioner got pregnant for the second time and she had come to her parents house at Madurai. After the birth of the



second child and despite information to him about the delivery of the second child, the respondent did not visit the petitioner. Thereafter the petitioner had received notice. The respondent has filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act. In the said petition, though the address of the petitioner is shown as Madurai the petition has been filed at Family Court, Chengalpattu. Though the petition is filed for restitution of conjugal rights the only intention of the respondent is to harass the petitioner by making her travel all way from Madurai to Chennai on all hearing dates. The petitioner is having two small children aged about 3 and 5 and she find it difficult to leave the children and travel all the way. He would also submit that the petitioner was harassed by the respondent and his family members for which the petitioner has also given complaint before the All Women Police Station, Thilagar Thidal and a case was registered in Crime No.7 of 2020 for the offences under Sections 498(A) and 406 of IPC.

3.The learned counsel for the petitioner would reiterate that the address of the petitioner in O.P.No.521 of 2020 is given as Vikkiramangalam, Madurai District within the jurisdiction of Family Court, Madurai, and only to harass the petitioner he has filed a petition at Family Court, Chengalpattu, thereby the petitioner seeks transfer of O.P.No.521 of 2020 on the file of the II Family Court, Chennai to the Family Court, Madurai.

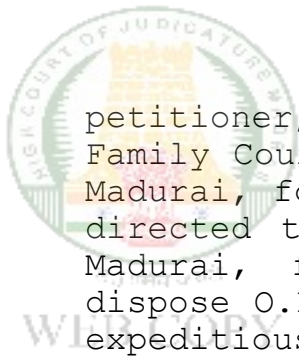
4. Heard the learned counsel for the petitioner. Despite service of notice the respondent has not appeared before this Court. In the petition filed before the II Family Court, Chennai the address of the respondent is shown Vikkiramangalam, whereas the using the last residing address the petition has been filed before the Family Court, Chennai

5. The marriage between the petitioner and the respondent was solemnized on 05.02.2015 at Pathirakaliamman Thirumana Mandapam, Vikramangalam, Madurai District. The petitioner is having two children and she is unable to travel from Madurai to Chennai to attend the court hearings.

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 petition 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 more so 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

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petitioner, O.P.No.521 of 2020 is withdrawn from the file of II Family Court, Chennai and transferred to the file of Family Court, Madurai, for disposal as per law. The II Family Court, Chennai, is directed to transmit the papers to the file of the Family Court, Madurai, forthwith. The Family Court, Madurai, is directed to dispose O.P No.521 of 2020 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 also closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

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To:

- 1.The Family Court, Madurai
- 2.The II Family Court, Chennai

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