



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Tr.C.M.P. (MD) No.114 of 2021

and

C.M.P. (MD) No.2284 of 2021

WEB COPY

S.Benazir

... Petitioner

-vs-

Abulkalaam Azad

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the case in G.W.O.P.No.15 of 2021 on the file of Hon'ble 1st Additional District Court, Madurai to the file of the Family Court, Nagercoil to dispose in accordance with law.

For Petitioner : Mr.S.Suresh Kumar

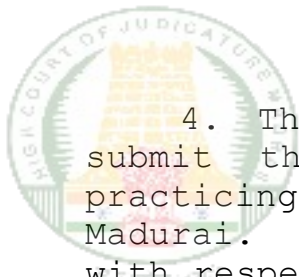
For Respondent : Mr.R.M.Arun Swaminathan

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in G.W.O.P.No.15 of 2021 on the file of 1st Additional District Court, Madurai, to the file of the Family Court, Nagercoil, to dispose in accordance with law.

2.The respondent has filed G.W.O.P.No.15 of 2021 before the 1st Additional District Court, Madurai, for declaring that the respondent as a natural guardian of the minor child and other reliefs.

3. The learned counsel for the petitioner/wife submitted that the respondent has taken away the child, who is aged about three years from the custody of the petitioner. With regard to the same, she preferred a complaint before the All Women Police Station Nagercoil. The petitioner as well as the respondent are residing at Kanyajkumari District. Without any territorial jurisdiction, the respondent has preferred G.W.O.P before the 1st Additional District Court, Madurai, only with a view to harass the petitioner. The petitioner is a single women and she is living without any support. The distance between Nagercoil to Madurai is nearly 240 kms. In this circumstance, it is very difficult for the petitioner to travel from Nagercoil to Madurai for attending the Court hearing in G.W.O.P.No.15 of 2021. Hence, he prays to transfer the case to Nagercoil.



4. The learned counsel appearing for the respondent would submit that the petitioner as well as the respondent are practicing Advocate before this Court and both of them residing in Madurai. Section 9 of the Wards Act provides that an application with respect to the guardianship of the minor shall be made to the District Courts having jurisdiction in the place where the minor ordinarily resides. The relevant portion is extracted hereunder:-

"9.Court having jurisdiction to entertain application:-

(i) if the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides."

5.The learned counsel for the respondent would further submit that the after taking several treatments, the female baby was born on 14.07.2017 in Meenakshi Mission Hospital, Madurai, where the child is being given vaccination and he has also produced the medical records to that effect. Therefore, for the interest of child, the case cannot be transferred to Nagercoil and he strongly opposes to transfer the case.

6.I have heard the learned counsel appearing on either side and perused the materials placed on record.

7.Considering the facts and circumstances of the case and considering the submission made by both sides, G.W.O.P.No.15 of 2021 is withdrawn from 1st Additional District Court, Madurai and transferred to the file of Principal District Court, Tirunelveli, for disposal as per law. The learned 1st Additional District Judge, Madurai, is directed to transmit the papers to the file of the Principal District Court, Tirunelveli, forthwith. The learned Principal District Judge, Tirunelveli, is directed to dispose of the case in G.W.O.P.No.15 of 2021 on merits and in accordance with law, within a period of 6 months from the date of receipt of a copy of this order.

8.In fine, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)



To:

1.The 1st Additional District Judge, Madurai.

2.The Principal District Judge, Tirunelveli.

copy to
The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Tr.C.M.P. (MD) No.114 of 2021
and
C.M.P. (MD) No.2284 of 2021
Dated:
01.07.2021

KM(08.07.2021) 3P 4C