



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.142 of 2021

and

C.M.P. (MD) No.2673 of 2021

WEB COPY

Mahalakshmi

... Petitioner/Respondent-wife

-vs-

Manikandan

... Respondent/Petitioner-Husband

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 Sub Court, Devakottai in HMOP No.14 of 2021 and transfer the same to the Principal Sub Court, Trichy.

For Petitioner : Mr.T.Veerakumar

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 Sub Court, Devakottai in HMOP No.14 of 2021 and transfer the same to the Principal Sub Court, Trichy.

2.The learned counsel for the petitioner would submit that the petitioner is the wife. The marriage between the petitioner and the respondent was solemnized on 03.02.2017 at Vairam Community Hall, Devakottai as per the Hindu rites and customs. After few days of marriage the respondent started harassing the petitioner demanding more dowry and on 21.11.2020 the respondent had driven the petitioner from the matrimonial home. The respondent/ husband has filed a petition in HMOP No.14 of 2021 on the file of the Sub Court, Devakottai seeking divorce. He would also submit that the petitioner is under the mercy of her aged parents. Further the petitioner has to travel from Trichy to Devakottai which is 85 kms away from her residence, thereby seeks transfer of the HMOP No. 14 of 2021 from the file of Devakottai to Trichy.

3.This Court had ordered notice to the respondent. Since the notice sent to respondent returned. Notice sent through Court returned as 'left'. Private notice has been served and proof has been filed. Notice also served on the counsel appearing for the respondent before the trial Court and proof has been filed. Though the name of the lower court counsel printed in the cause list, there is no representation for 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***, the Hon'ble Supreme Court reported in (2003)10 SCC 609 has held that ***the convenience of the wife 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.14 of 2021 is withdrawn from the file of Sub Court, Devakottai and transferred to the file of Principal Sub Court, Trichy, for disposal as per law. The Sub Court, Devakottai, is directed to transmit the papers to the file of the Principal Sub Court, Trichy, forthwith. The Principal Sub Court, Trichy is directed to dispose H.M.O.P.No.14 of 2021 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 closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

- 1.The Principal Sub Judge, Trichy.
- 2.The Sub Judge, Devakottai.

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RS (25.08.2021) 2P 3C