



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2021

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

TR.CMP.(MD)No.158 of 2020

and CMP.(MD)No.2943 of 2020

Keerthana

... Petitioner/Respondent

Vs.

S.Balasubramaniyan

... Respondent/Petitioner

PRAYER: Transfer civil miscellaneous petition filed under Section 24 CPC., r/w Order Rule 1(2) CPC., to withdraw the case in HMOP.No.697 of 2019 on the file of the Sub Court, Thambaram and transfer the same to the Family Court, Sivagangai.

For Petitioner	: Mr.A.Prasanna Rajadurai
For Respondents	: No appearance

ORDER

This transfer civil miscellaneous petition has been filed to withdraw the case in HMOP.No.697 of 2019 on the file of the Sub Court, Thambaram and transfer the same to the Family Court, Sivagangai.

2.The learned counsel appearing for the petitioner would submit that marriage between the petitioner and the respondent was solemnized on 08.02.2015 at AMK Thirumana Mahal, Thirupathur, Sivagangai as per Hindu rites and customs and the marriage was also registered on 19.02.2015 at Sub-Registrar Office, Sivagangai. He would further submit that the respondent is working as Junior Engineer in BSNL and at the time of marriage, 40 sovereigns of gold jewels and other house hold articles given to the respondent as sreeethana by the petitioner's parents. After some time, the petitioner found some noticeable change in the respondent and his family members' behaviour and he came to know that the respondent had borrowed loan from several persons for interest and the respondent had pressurized the petitioner to borrow money from her parents. He would also submit that when the petitioner had refused to meet the demand of the respondent, she was harassed and the respondent had physically abused her and insisted her to get Rs.10 Lakhs from her parents. Unable to bear the mental and physical abuse, the petitioner was forced to leave the matrimonial home and now, she is now under the care and custody of her elderly parents at Sivagangai.



3.The learned counsel appearing for the petitioner would further submit that the respondent did not take any step to take her back whereas he filed a petition in HMOP.No.697 of 2019 on the file of the Sub Court, Thambaram seeking to dissolve the marriage between the petitioner and the respondent held on 08.02.2015. He would also submit that since the respondent had not maintained the petitioner, she had filed a maintenance petition in MC.No.1 of 2020 before the Family Court, Sivagangai seeking for maintenance of Rs.35,000/-. The petitioner has also filed a petition in DV.No.2 of 2020 on the file of the Mahila Court, Sivagangai.

4.The learned counsel appearing for the petitioner would submit that two petitions filed by the petitioner are pending on the file of the Courts at Sivagangai whereas petition filed by the respondent in HMOP.No.697 of 2019 is pending on the file of the Sub Court, Thambaram. The parents of the petitioner are also old and the petitioner being a single lady finds it very difficult to all the way travel from Sivagangai to Chennai, which is 450 km. He would further submit that earlier this Court referred the matter to mediation and the same is pending and the respondent is not coming for any useful settlement.

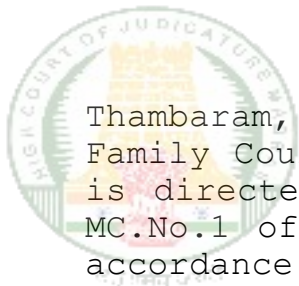
5.He would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration of the inconvenience and the comparative hardship faced by the petitioner/wife had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

6.The respondent had been served and his name is also printed in the cause list. However, when the matter is taken up for hearing today, there is no representation on behalf of the respondent.

7.Heard the learned counsel on either side and perused the material available on records.

8.The Hon'ble Apex Court in the case of ***Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap*** reported in (2016)14 SCC 356 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 held that ***the convenience of the wife must be taken into account while deciding the petition for transfer.***

9.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing for the petitioner, HMOP No.697 of 2019 is withdrawn from the file of Sub Court, Thambaram, and transferred to the file of the Family Court, Sivagangai, for disposal as per law. The Sub Court,



Thambaram, is directed to transmit the papers to the file of the Family Court, Sivagangai, forthwith. The Family Court, Sivagangai, is directed to club the case in H.M.O.P.No.697 of 2019 along with MC.No.1 of 2020 together and dispose of the same on merits and in accordance with law as expeditiously as possible.

10. In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Sub Judge, Thambaram.
- 2.The Judge,
The Family Court, Sivagangai.

TR.CMP. (MD) No.158 of 2020
01.11.2021

MGJ/PM(11.11.2021) 3P 3C