



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2021

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P (MD)No.171 of 2021

and

C.M.P (MD)No.3301 of 2021

WEB COPY

Mallika

... Petitioner/Respondent

-vs-

Nisanth

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying this Court to withdraw and transfer the case in H.M.O.P.NO.1613 of 2019 on the file of the Principal Family Court, Coimbatore District, to the file of the Family Court, Trichy District and consequently direct the transferee Court to deal with the said case in accordance with law.

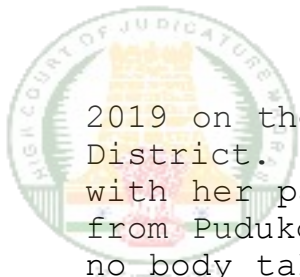
For Petitioner : Mr.P.Maharaja

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the case in H.M.O.P.NO.1613 of 2019 on the file of the Principal Family Court, Coimbatore District, to the file of the Family Court, Trichy District.

2.Heard the learned counsel appearing for the Petitioner and perused the material documents placed before this Court.

3.The learned counsel for the Petitioner would submit that the marriage between the Petitioner and the respondent was solemnized on 31.08.2017 as per Hindu Rights and Customs. After the marriage, the respondent demanded more dowry from the petitioner and she was unable to comply with the demand of the respondent. Therefore, the respondent did not show any interest to live with the petitioner as a husband. He started harassing and created trouble to the petitioner and thereby, the petitioner was driven out to her parental home. In the meanwhile, the respondent also shifted from Trichy and settled at Coimbatore. He would further submit that the petitioner is now being take care of by her parents and now she is settled at Pudukottai. Since the respondent left her and went away, the petitioner was constrained to file a petition in D.V.C. No.70 of 2019 on the file of the Additional Mahila court (Magistrate level), Trichy, Trichy District and she has also filed a maintenance case. Though, the respondent lived as husband and wife at Trichy, the respondent has filed a petition for divorce in H.M.O.P. No.1613 of



2019 on the file of the learned Principal Family Court, Coimbatore District. After desertion, the petitioner is now presently living with her parents at Pudukottai and she finds it difficult to travel from Pudukottai to Coimbatore, which is about 270 kms away. She has no body take care of her at Coimbatore and she has no place to stay at Coimbatore. The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration the convenience 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.

4. Though notice has been served on the respondent and his name is also printed in the cause list, none appeared on behalf of the respondent.

5.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.***

6. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, H.M.O.P. No.1613 of 2019 is withdrawn from the file of Principal Family Court, Coimbatore District and transferred to the file of the learned Judge, Family Court, Trichy District for disposal as per law. The Family Court, Coimbatore, is directed to transmit the papers to the file of the learned Judge, Family Court, Trichy, forthwith. The learned Judge, Family Court, Trichy District, is directed to dispose H.M.O.P. No.1613 of 2019 and D.V.C. No.70 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 closed.

Sd/-

Assistant Registrar (CS-III)

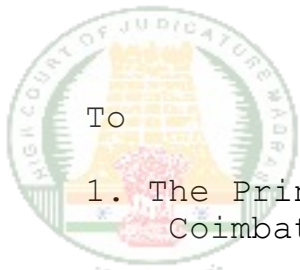
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

1. The Principal Family Court,
Coimbatore.

2. The Family Court,
Trichy District.

Tr.C.M.P(MD)No.171 of 2021

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