



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.192 of 2021

and

C.M.P. (MD) No.3698 of 2021

WEB COPY

V.Umamaheswari

... Petitioner/Respondent

Vs.

G.Thesingh Raja

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP No.105 of 2021 on the file of the Family Court, Tirunelveli and transfer the same to the file of the Family Court, Madurai for adjudication.

For Petitioner : Mr.T.Thirumurugan

For Respondent : Mr.S.R.Durairaj

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in H.M.O.P.No.105 of 2021 from the file of the Family Court, Tirunelveli and to transfer the same to the file of 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 23.08.2018 at Vasuthevanallur. On 07.05.2019, the petitioner and the respondent were blessed with male child namely, Vetrимaran. After the birth of the child, the attitude of the respondent has changed and he had demanded additional dowry and when the petitioner was unable to pay the additional dowry as claimed by the respondent, the petitioner was driven out of the matrimonial home and the petitioner is presently residing with her parents at Madurai. The petitioner has taken steps for reunion, but all ended in vain. The respondent had not given any financial assistance to the petitioner and the child. In the mean time, the respondent has filed a petition in H.M.O.P.No.105 of 2021, on the file of the Family Court, Tirunelveli, seeking for divorce. The petitioner finds it difficult to travel all the way from Madurai to Tirunelveli to attend the Court hearings and the petitioner has nobody to accompany her.

3.The learned counsel for the petitioner would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration the inconvenience and the comparative hardship



faced by the petitioner/wife and child, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

4.The learned counsel for the respondent would submit that the mother of the respondent is aged and she is sick and he is the only person to take care of her. He would further submit that the petitioner belongs to a wealthy family and she is having money and muscle power and the respondent apprehends that if he goes to Madurai he will be physically assaulted by the petitioner's family members.

5. The learned counsel for the petitioner would submit that the petitioner gives an undertaking that no such thing will happen, if the respondent appears before the Family Court, Madurai.

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

7.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.***

8.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel on either side, HMOP No.105 of 2021 is withdrawn from the file of the Family Court, Tirunelveli, and transferred to the file of the Family Court, Madurai, for disposal as per law. The Family Court, Tirunelveli, is directed to transmit the papers to the file of the Family Court, Madurai, forthwith. The Family Court, Madurai, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To
1.The Family Court,
Tirunelveli.

2.The Family Court,
Madurai.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-31981[F] dated 11/10/2021)

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-31724[F] dated 08/10/2021)

Tr.C.M.P. (MD) No.192 of 2021
08.10.2021

RD(25.10.2021) 3P 5C