

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 11.08.2021

CORAM

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

**Tr.C.M.P(MD)No.197 of 2021****and****C.M.P(MD)No.3785 of 2021**

C.Dhanalakshmi

... Petitioner/Respondent

-vs-

Rajesh Kannan

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying this Court to withdraw H.M.O.P.No.33 of 2021 on the file of the Subordinate Court, Alandur and transfer the same to the file of Family Court, Thoothukudi to be tried along with H.M.O.P.No.68 of 2021.

For Petitioner : Mr.R.J.Karthick

**O R D E R**

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw H.M.O.P.No.33 of 2021, on the file of the Subordinate Court, Alandur and transfer the same to the file of Family Court, Thoothukudi to be tried along with H.M.O.P.No.68 of 2021.

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

3.The learned counsel for the Petitioner would submit that the marriage between the Petitioner and respondent was solemnized on 22.5.2015 at Arulmighu Thirisoolanathar Samedha Thiripurasundariamman Temple at Thirusoolam, Chennai. The Petitioner along with the respondent and his family members stayed at Zamin Pallavaram, Chennai. Before marriage, the respondent and his family members did not demand any dowry, however, after marriage, the respondent and his mother started harassing her demanding Rs.50,000/- as dowry. The Petitioner during her stay in the matrimonial home, was subjected to high mental stress and torture, for not complying with the payment of Rs.50,000/- as demanded by them as dowry and thereafter, the Petitioner and her husband were sent out from the joint family nucleus to a separate home. The Petitioner due to thyroid problem, was not blessed with the child and was put to severe mental stress and depression. She was asked to take treatment for the same and at the same time, the medical examination of the husband also revealed that the sperm quality of him is very low and that is the reason for her non-conception. The learned counsel would further submit that the respondent became a habitual drunkard and was addicted to alcohol



and used to constantly assault her physically, thereby, the Petitioner was forcefully driven out of the matrimonial home.

4.The learned counsel for the Petitioner would submit that the Petitioner was in fond hope that the respondent would mend his ways and take her back after some time, whereas, he has filed a petition for divorce in H.M.O.P.No.33 of 2021, on the file of Subordinate Court, Alandur making false allegations against the Petitioner. The Petitioner also filed a Petition in H.M.O.P.No.68 of 2021, on the file of Family Court, Thoothukudi, for restitution of conjugal rights. The Petitioner is without any job and she is at the mercy of her parents and that due to her ill health, she finds it difficult to travel from Thoothukudi to Chennai for each and every hearing and she also does not have any support to travel from Thoothukudi to Chennai and she has nobody to take care of her at Chennai. The Petitioner also feels that if the husband's case is transferred to Thoothukudi, there could be a chance of settlement between the parties and hence seeks for transfer.

5.Though notice was ordered to the respondent, the Court notice has been returned un-served. This Court had directed the Petitioner to take private notice to the respondent. Though Private notice was served and proof of service has been filed and the name of the respondent printed in the cause-list, there is no representation on behalf of the respondent.

6.The Petitioner wife has filed the Petition. The Petition filed by her for restitution in H.M.O.P.No.68 of 2021 is pending on the file of Family Court,Thoothukudi.The Petition filed by the respondent/husband in H.M.O.P.No.33 of 2021 is pending on the file of Sub-Court, Alandur.

7.In the case of **Vaishali Shridhar Jagtap .vs.Shridhar Vishwanath Jagtap** reported in (2016) 14 Supreme Court Cases 356, the Honourable Apex Court has held that comparative hardship of the wife has to be taken into consideration while deciding a petition for transfer

8.Taking into consideration the above facts and circumstances and the submissions made by the learned counsel for the Petitioner that the Petitioner finds it difficult to travel from Thoothukudi to Chennai for each and every hearing and that she has no one to take care of her at Chennai, this Court is inclined to allow the present Transfer Civil Miscellaneous Petition.

9.Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.33 of 2021, pending on the file of Subordinate Court, Alandur is withdrawn and transferred to the file of Family Court, Thoothukudi to be tried along with H.M.O.P.No.68 of 2021, on its file, for disposal in accordance with law. The Sub-



ordinate Court, Alandur is directed to transmit the entire case records in H.M.O.P.No.33 of 2021 to the file of Family Court, Thoothukudi, forthwith. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

vsn

To

1.The Subordiante Judge,  
Alandur.

2.The Judge,  
Family Court,  
Thoothukudi,.

Tr.C.M.P (MD) No.197 of 2021  
and  
C.M.P (MD) No.3785 of 2021  
11.08.2021

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