



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.219 of 2021

and

C.M.P (MD)No.4236 of 2021

WEB COPY

Akilandeswari

... Petitioner/Respondent

-vs-

B.Keerthivas

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying this Court to withdraw the O.P.NO.191 of 2021 on the file of the Family Court, Chennai and transfer the same to the Subordinate Court or Family Court, Tiruchirappalli.

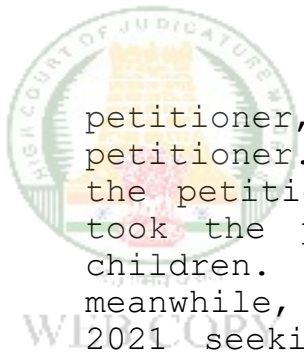
For Petitioner : M/s.J.Madhu

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw O.P.No.191 of 2021, on the file of the Family Court, Chennai and transfer the same to the file of Subordinate Court or Family Court, Tiruchirappalli.

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 18.01.2013 as per Hindu Rights and Customs at Srirangam, Trichy. After marriage, the respondent got an employment in Chennai and the matrimonial home was shifted to Chennai. The petitioner became pregnant and during the seventh month after conducting baby shower function the petitioner went to her parental home at Trichy and stayed there till her delivery as per the traditions and customs in force. The learned counsel would further submit that out of wedlock, she gave birth a female child, namely; K.Akshara on 09.11.2013. Despite, intimation given by the parents of the petitioner, the respondent did not bother to take her. Thereafter, due to the intervention of the relatives and friends the petitioner was united with the respondent. Strangely, the respondent had compelled the petitioner to change the name of the child from K.Soujanya to K.Akshara. Thereafter, the matrimonial home was shifted to T.Nagar, Chennai. During the time the respondent started to quarrel frequently with the petitioner and physically ill-treated on several occasions. Tolerating all the abuses and tortures the petitioner was living with him and also conceived for the second time and the petitioner was send back to her parental home for delivery and the petitioner gave birth to the second girl child, namely; K.Shankari on 10.07.2017. Despite intimation given by the parents of the



petitioner, again the respondent did not come to visit the petitioner. The relatives and friends have taken steps to reunite the petitioner with the respondent whereas the respondent neither took the petitioner back nor maintaining the petitioner or her children. The learned counsel further would submit that, in the meanwhile, the respondent has filed a petition in O.P. No.191 of 2021 seeking for divorce before the Family Court, Chennai. The parents of the petitioner are not financially well. Since the petitioner is having two small children she finds it difficult to travel from Trichy to Chennai, which is about 300 kms away. She has no body take care of her at Chennai and she has no place to stay at Chennai. 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, O.P. No.191 of 2021 is withdrawn from the file of Family Court, Chennai and transferred to the file of the learned Judge, Family Court, Trichirappalli for disposal as per law. The Family Court, Chennai, is directed to transmit the papers to the file of the learned Judge, Family Court, Thiruchirappalli, forthwith. The learned Judge, Family Court, Thiruchirappalli, is directed to dispose O.P. No.191 of 2021 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)



To

1.The Judge,
Family Court,
Chennai.

2.The Judge,
Family Court,
Thiruchirappalli.

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