



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.226 of 2021

and

C.M.P. (MD) Nos.4352 & 4353 of 2021

WEB COPY

K.Jasmin

... Petitioner/Respondent

Vs.

B.Pradeeppraja

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the HMOP No.7 of 2021 from the file of the Subordinate Court, Uthamapalayam and transfer the same to the file of the Subordinate Court, Paramakudi.

For Petitioner : Mr.K.R.Laxman
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in HMOP No.7 of 2021 from the file of the Subordinate Court, Uthamapalayam and transfer the same to the file of the Subordinate Court, Paramakudi.

2.The learned counsel for the petitioner would submit that the petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 03.11.2019 at Arulmighu Subramaniaswamy Thirukovil, Paramakudi, as per the Hindu Rites and Customs. After the marriage, the petitioner and the respondent were living at Chennai. During the said period the respondent had subjected the petitioner to untold cruelty and harassment and thereby, the petitioner was forced to leave the matrimonial home.

3.The learned counsel for the petitioner would further submit that the petitioner and her relatives had taken steps for reunion, but the respondent did not agree for reunion. The petitioner is now living in her parental home with her aged mother and younger brother, who is also sick. In the mean while, the respondent has filed HMOP No.7 of 2021 on the file of the Subordinate Court, Uthamapalayam, seeking for divorce. The petitioner is residing at Paramakudi and the distance between Paramakudi to Uthamapalayam is nearly 200 kms. The petitioner finds it difficult to travel all the way from Paramakudi to Uthamapalayam to attend the Court hearings and the mother of the petitioner is



also sick and there is nobody to accompany her to Court.

4.The learned counsel for the petitioner 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.

5.Heard the learned counsel for the petitioner. Despite service of notice and name is printed in the cause list, there is no representation on behalf of the respondent, either in person or through counsel.

6.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.***

7.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.7 of 2021 is withdrawn from the file of Subordinate Court, Uthamapalayam and transferred to the file of Subordinate Court, Paramakudi, for disposal as per law. The Subordinate Court, Uthamapalayam, is directed to transmit the papers to the file of the Subordinate Court, Paramakudi, forthwith. The Subordinate Court, Paramakudi, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.

8.In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

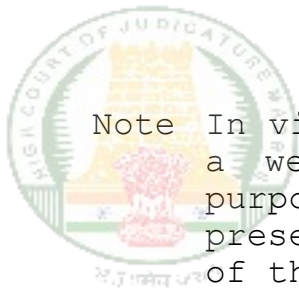
Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rm



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 Subordinate Court,
Uthamapalayam.

2.The Subordinate Court,
Paramakudi.

Copy to

The Section Officer, V.R.Section (2C)
Madurai Bench of Madras High Court, Madurai

Tr.C.M.P. (MD) No.226 of 2021
05.10.2021

NSN (CO)
KB (22.10.2021) 3P 5C