



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.295 of 2021

in CMP(MD)No.6296 of 2021

WEB COPY

K.Nithya

... Petitioner/Respondent

-vs-

M.Sethuraja

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the case in HMOP No.298 of 2020 on the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Coimbatore.

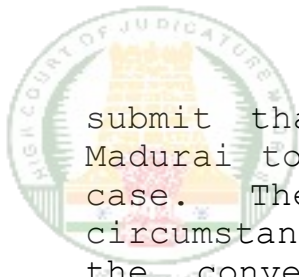
For Petitioner : Mr.T.Veerakumar

For Respondent : No Apperance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Family Court, Madurai in HMOP No.298 of 2020 and transfer the same to the file of the Family Court, Coimbatore.

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 03.06.2018 at Sri Sowmiya Narayana Perumal Temple, Thirukoshtiyur, Tiruppattur Taluk, Sivagangai District as per the Hindu Rites and Customs. At the time of marriage, the parents of the petitioner spent Rs.3,00,000/- as marriage expenses. After the marriage, the petitioner and the respondent set up their matrimonial house at Coimbatore and a female child, named Kruthisha was born on 03.12.2019. After the birth of the child, the attitude of the respondent changed and he started harassing and torturing the petitioner even for petty issues and he did not go for work and got addict to alcohol and had driven the petitioner out of the matrimonial home. He would further submit that the petitioner came to know that her husband filed HMOP No.298 of 2020 on the file of the Family Court, Madurai. He would further submit that it is not the real intention to the respondent to take the petitioner along with the child back to the matrimonial home and it is only to harass her. In fact, the petitioner along with the child appeared before the Court on a earlier hearing date, whereas the respondent did not turn up for hearing. He would further



submit that the petitioner finds it difficult to travel from Madurai to Coimbatore, which is about 300 kms away to attend the case. 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.

3. Heard the learned counsel for the petitioner. Though notice has been served on the respondent, there is no representation on behalf of the respondent either in person or through counsel.

4. 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***.

5. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.298 of 2020 is withdrawn from the file of Family Court, Madurai and transferred to the file of Family Court, Coimbatore for disposal as per law. The Family Court, Madurai, is directed to transmit the papers to the file of the Family Court, Coimbatore, forthwith. The Family Court, Coimbatore is directed to dispose HMOP No.298 of 2020 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sjj

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

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order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The Family Court, Madurai.
- 2.The Family Court, Coimbatore.

Tr.C.M.P. (MD) No.295 of 2021
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ARK (CO)
SB(13.09.2021) 3P 3C