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Tr CMP (MD) No. 274 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.274 of 2021

and

C.M.P. (MD) No.5799 of 2021

S.Nivetha

... Petitioner/Respondent

-vs-

S.Pon Krishnakumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No.100 of 2021 on the file of the Family Court, Thoothukudi, and to transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.M. John Robert Kennady

For Respondent : Mr.A. Thiruvadi Kumar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the petition in HMOP No.100 of 2021, on the file of the Family Court, Thoothukudi and to transfer the same to the file of Family Court, Coimbatore.

2. The learned counsel for the petitioner would submit that the petitioner and the respondent belong to different communities. However, they fell in love with each other and they got married on 29.01.2014 at Thiruchendur Arulmigu Subramaniaswamy Thirukoil. After marriage, the petitioner along with her husband were living at Tuticorin with the parents of the respondent. Later, sometime, the parents of the petitioner agreed and recognized their marriage and a grand reception was conducted at Coimbatore in the presence of relatives and friends of the petitioner. The respondent was working at Diamond Sea Foods and drawing a salary of Rs.25,000/-. Initially, the parents of the respondent were taking care of the petitioner and later the respondent and his family members started harassing her demanding dowry. In the meanwhile, a female child was born on 16.09.2015. Since the harassment continued, the petitioner left the matrimonial home on June 2019 and went to her parents house at Coimbatore and she is now being taken care of by her parents. The respondent and his parents never visited the child and have not given money to meet out the expenses of child. The parents of the petitioner are also not well off and that they are in great difficulty to take care of the petitioner and her child. In the



meanwhile, the respondent has sent a notice with allegation against petitioner and later he has filed HMOP.No. 100 of 2021, on the file of Family Court, Thoothukudi, seeking dissolution of marriage.

3. The learned counsel for the petitioner would further submit that the distance between Tuticorin and Coimbatore is approximately 500 kilometers and it is very difficult for the petitioner to travel such a long distance along with her child to attend HMOP.No.100 of 2021, pending on the file of the Family Court, Tuticorin. Further, there is no one to accompany with her to travel such a long distance and she has nobody to take care of her at Tuticorin. In the above circumstances, she filed the present Transfer Civil Miscellaneous Petition seeking to transfer HMOP.No.100 of 2021, on the file of the Family Court, Tuticorin to the file of the Family Court, Coimbatore.

4. The respondent / husband is well employed and drawing a salary of Rs.25,000/- per month, however, he is also not maintaining the petitioner and her child. The learned counsel for the petitioner 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, she seeks for transfer.

5. The learned counsel appearing for the respondent vehemently opposed for transferring the case on the ground that the marriage took place at Thiruchendur and therefore, the Court in Tuticorin will have jurisdiction.

6. 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***, reported in ***(2003)10 SCC 609***, the Hon'ble Supreme Court has held that ***the convenience of the wife and moreso of the child 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. 100 of 2021 is withdrawn from the file of Family Court, Thoothukudi and transferred to the file of Family Court, Coimbatore, for disposal as per law. The learned Judge, Family Court, Tuticorin, is directed to transmit the papers to the file of the Family Court, Coimbatore, forthwith. The Family Court, Coimbatore, is directed to dispose H.M.O.P.No.100 of 2021 on merits and in accordance with law as expeditiously as possible.



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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

trp

To:

1. The Family Court, Tuticorin
2. The Family Court, Coimbatore.

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