



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P.(MD) No. 286 of 2021
and C.M.P(MD)No.6117 of 2021

M.Anitha

... Petitioner/Respondent

-Vs-

M.Sashikumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case on the file of the learned Principal Sub Court, Kancheepuram in H.M.O.P. No.176 of 2020 and transfer the same to the learned Sub Court, Virudhunagar.

For Petitioner : Mr.B.Muneeswaran

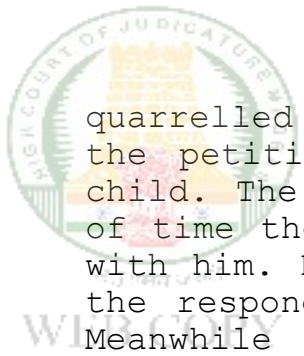
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.176 of 2020 from the file of the Principal Sub Court, Kancheepuram to the file of the Sub Court, Virudhunagar.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 23.08.2017 in Aruppukottai as per Hindu rites and customs and the marriage was an arranged marriage and on the same day the marriage was registered before the Sub Registrar, Virudhunagar.

3. At the time of marriage the respondent the respondent was working in America and as per the demand made by the family members of the respondent. The father of the petitioner had offered 25 sovereigns of gold jewels to the petitioner and also spent about Rs.8 lakhs towards marriage expenses and household articles worth about Rs.50000/- was given as dowry to the respondent. After marriage the petitioner and the respondent set up their matrimonial home at Chennai. Due to wedlock they were blessed with a female child named Shrivanya. After the birth of the child the attitude of the respondent changed and he started harassing the petitioner and



quarrelled with her. Unable to bear the torture and humiliation the petitioner came back to her matrimonial home along with her child. The petitioner was under the impression that after a period of time the respondent would understand and take her and the child with him. Despite the intervention of the relatives and wellwishers the respondent did not take care of the petitioner or her child. Meanwhile the petitioner had filed petition for restitution of conjugal rights in HMOP No. 88 of 2021 before the Sub Court, Virudhunagar. The respondent has also filed a petition in HMOP No. 176 of 2020 for divorce which is pending on the file of the Principal Sub Court, Kanchipuram. The petitioner and her female child are under the mercy of her aged parents and also financially not well. The petitioner has to travel all the way from Virudhunagar to Kanchipuram which is about 500kms. The petitioner finds it very difficult to travel along with her child and there is nobody to accompany her and she does not have any place to stay at Kanchipuram, thereby the present petition has been filed seeking for transfer of HMOP No.176 of 2020 on the file of the Principal Sub Court, Kanchipuram to the file of the Sub Court, Virudhunagar.

4. 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.

5. Though the respondent has been served and his name has been printed in the cause list, none appears on behalf of the respondent.

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***, the Hon'ble Supreme Court reported in ***(2003)10 SCC 609*** 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, H.M.O.P. No.176 of 2020 is withdrawn from the file of Principal Sub Court, Kancheepuram and transferred to the file of the Sub Court, Virudhunagar, for disposal as per law. The learned Principal Sub Judge, Kancheepuram, is directed to transmit the papers to the file of the Sub Court, Virudhunagar, forthwith. The learned Subordinate Judge, Virudhunagar is directed to dispose transferred H.M.O.P. No.176 of 2020 along with H.M.O.P.No.88 of 2021 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 petition is closed.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM/CSM

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.

To:

1. The Principal Sub Court, Kancheepuram.
2. The Sub Court, Virudhunagar.

Tr.C.M.P. (MD) No. 286 of 2021
and C.M.P (MD) No. 6117 of 2021

31.08.2021

RD(13.09.2021) 3P 3C