



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.348 of 2021

and

C.M.P. (MD) No.7051 of 2021

WEB COPY

A.Jeslin Vilma

... Petitioner/Respondent

Vs.

Saranraj

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the S.M.O.P.No.16 of 2021 pending before the Principal District Court, Dindigul and to transfer the same to the Family Court, Coimbatore.

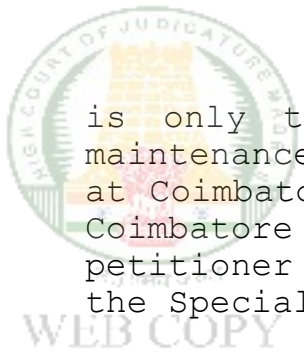
For Petitioner : Mr.P.Aju Tagore

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in S.M.O.P.No.16 of 2021 from the file of the Principal District Court, Dindigul and to transfer the same to the file of the Family Court, Coimbatore.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 16.05.2019, and it was also registered at Chinnalappatti Sub Registrar Office on the same day. After the marriage, the petitioner and the respondent were residing at Panjampatti, which is the native place of the respondent. After few days of marriage, the respondent as well as the family members have demanded more dowry and when the petitioner was unable to comply with the demand, the petitioner was driven out of the matrimonial home and she is presently residing with her mother at Coimbatore. Since the respondent did not maintain her, the petitioner has filed D.V.A.No.164 of 2020, on the file of Special Judicial Magistrate, Coimbatore, under the Domestic Violence Act against the respondent and his family members seeking for protection, maintenance and compensation. In order to evade payment of maintenance, the respondent as a counter-blast has filed the S.M.O.P.No.16 of 2021, on the file of Principle District Judge, Dindigul seeking for restitution of Conjugal Rights. The real intention of the respondent



is only to harass the petitioner and to evade the payment of maintenance. The petitioner is now at the mercy of her aged mother at Coimbatore and she finds it difficult to travel all the way from Coimbatore to Dindigul, which is more than 200 kms. Further, the petitioner has filed D.V.A.No.164 of 2020 which is pending before the Special Judicial Magistrate, Coimbatore.

3.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.

4. 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.

5.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.***

6.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, SMOP No.16 of 2021 is withdrawn from the file of Principal District Court, Dindigul and transferred to the file of the Family Court, Coimbatore, for disposal as per law. The Principal District Court, Dindigul, is directed to transmit the papers to the file of the Family Court, Coimbatore, forthwith. The Family Court, Coimbatore, is directed to dispose of the same 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)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 District Judge,
Dindigul.

2.The Judge,
Family Court,
Coimbatore.

Tr.C.M.P. (MD) No.348 of 2021
07.10.2021

MGJ(25.10.2021) 3P 3C