



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.09.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Tr.CMP(MD)No.304 of 2021

and

CMP(MD)No.6392 of 2021

WEB COPY

K.Mahalakshmi

... Petitioner/Respondent

-Vs-

N.Karthick Raja

... Respondent/petitioner

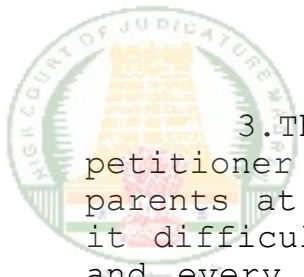
Prayer:The Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw the case in FCOP No.189 of 2021 from the file of the Family Court, Chengalpattu and transfer the same to the file of the Family Court, Dindigul.

For Petitioner	:	Mr.AN.Ramanathan
For Respondent	:	Mr.J.Selvin Rajesh
		for M/s.Dictim Law Firm

ORDER

This transfer civil miscellaneous petition has been filed seeking to withdraw the above FCOP No.189 of 2021 from the file of Family Court, Chengalpattu and transfer the same to the file of the Family Court, Dindigul.

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 02.09.2019 at Arulmigu Sivasubramani Swami Thirukoil, Chinnalapatti, Dindigul District on 02.09.2019, as per the Hindu Rites and Customs. At the time of marriage, the parents of the petitioner gave 13 ½ sovereigns of gold along with house hold articles to the respondent as Sreedhana. Thereafter, the petitioner and the respondent set up their matrimonial home at Chengalpattu. Out of the wedlock, the petitioner has given birth to a male child, namely, Nickel Karthic on 29.07.2020. After the birth of the child, the character of the respondent changed and he started harassing and tortured the petitioner. He did not take care of the petitioner and her one year old child and later he had driven the petitioner and her child out of the matrimonial home and presently the petitioner and her child are with her parents at Chinnalapatti. While so, the respondent has filed F.C.O.P.No.189 of 2021 on the file of the Family Court, Chengalpattu seeking for divorce.



3.The learned counsel would further submit that the petitioner is without any job and she is living at the mercy of her parents at Chinnalapatti and that due to her ill health, she finds it difficult to travel from Chinnalapatti to Chengalpattu for each and every hearings along with her child. He would further submit that the petitioner as well as the respondent hail from Dindigul District and the parents of the respondent are also settled at Dindigul District and there is a chance for settlement. Further, it would not be difficult for the respondent to attend the Court at Dindigul District.

4.The learned counsel for the respondent would submit that since the matrimonial house has been set up at Chengalpattu, the case has been filed before the Family Court, Chengalpattu. He would further submit that he also has no objection for transferring the case from the file of the Family Court, Chengalpattu to the file of the Family Court, Dindigul.

5.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 petition of matrimonial proceedings under Section 25 of the Civil Procedure 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 more so of the child 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 on either side, F.C.O.P.No.189 of 2021, is withdrawn from the file of the Family Court, Chengalpattu and transferred to the file of the Family Court, Dindigul for disposal, as per law. The Family Court, Chengalpattu, is directed to transmit the papers to the file of the Family Court, Dindigul, forthwith. The Family Court, Dindigul, is directed to dispose F.C.O.P.No.189 of 2021 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 also closed

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The Judge, The Family Court, Chengalpattu.

2.The Judge, The Family Court, Dindigul.

+1 CC to M/s.AN. RAMANATHAN, Advocate (SR-28168[F] dated 06/09/2021

Tr.CMP (MD) No.304 of 2021
03.09.2021

VR (CO)

KB (29.09.2021) 3P 4C