



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.09.2021

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Tr.CMP(MD)No.315 of 2021

and

CMP(MD)No.6726 of 2021

G.Meenatchi

... Petitioner

-Vs-

1.S.Prasanna

2.A.Pethuraj

... Respondents

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw the case in H.M.O.P.No.7 of 2020 on the file of the Sub Court, Aruppukottai and transfer the same to the file of the Sub Court, Kovilpatti.

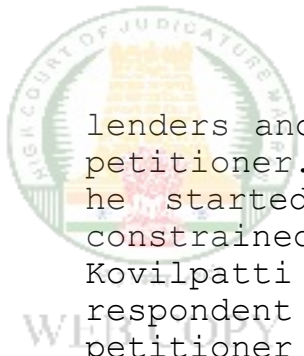
For Petitioner : M/s.Maria Vinola

For Respondents : No Appearance

ORDER

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Sub Court, Aruppukottai in HMOP No.7 of 2020 and transfer the same to the file of Sub Court, Kovilpatti.

2.The learned counsel for the petitioner would submit that the petitioner is the wife of the first respondent. The marriage between the petitioner and the first respondent was solemnized on 08.11.2010 at Sri Krishnan Kovil, Kovilpatti. The marriage was also duly registered vide Certificate No.352/2010 dated 03.12.2010. The marriage was a love marriage and the first respondent was working as Supervisor in a Private Mill, the petitioner was working as a contractual labour in the said mill. Before the marriage, on the advice of the first respondent, the petitioner has also left the job. Out of the wedlock, the first son namely Bala Hariharasudhan was born on 03.10.2011 and the second son Logesh Silambu was born on 23.06.2014. Both the children were studying in Nadar Middle School in Kovilpatti. After few years of marriage, the first respondent got into bad company and became addicted to alcohol. He was not having a permanent job and he started borrowing money from private



lenders and he has even lost 10 sovereigns of gold belonging to the petitioner. Later, the attitude of the first respondent changed and he started harassing the petitioner. Hence, the petitioner was constrained to give a complaint before the All Women Police Station, Kovilpatti on 07.11.2019. During the police enquiry, the first respondent undertook that not to interfere with the life of the petitioner and he also agreed that the children will be in the custody of the petitioner. The petitioner is taking care of the children and she has also paid the school fees for the academic year 2021-2022.

3.In the meanwhile, the first respondent has filed H.M.O.P No.7 of 2020 on the file of the Sub Court, Aruppukottai seeking for dissolution of marriage. While the above petition was pending, the first respondent had come to the house of the petitioner and taken away the children from her forcibly. The first respondent is in the habit of physically torturing the petitioner. Hence, the petitioner apprehends that if she goes to Aruppukottai she would be physically and mentally tortured by the first respondent. There is nobody else in the family to escort the petitioner to Aruppukottai Court and the petitioner is put to hardship and inconvenience.

4.The learned counsel 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, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, the present petition has been filed seeking for transfer of the case to the Sub Court, Kovilpatti.

5.Heard the learned counsel for the petitioner. Though notice was served on the respondents and the learned counsel, who is appearing for the respondents before the trial Court and their name being printed in the cause-list, there is no appearance on behalf of the respondents, either in person or through counsel.

6.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.**

7.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.7 of 2020 is withdrawn from the file of Sub Court, Aruppukottai and transferred to the file of Sub Court, Kovilpatti for disposal as per law. The Sub Court, Aruppukottai, is directed to transmit the papers to the file of the Sub Court,



Kovilpatti, forthwith. The Sub Court, Kovilpatti is directed to dispose H.M.O.P.No.7 of 2020 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 (W)

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

To

1.The Subordinate Judge, Aruppukottai.

2.The Subordinate Judge, Kovilpatti.

+1 CC to M/s.M.MARIA VINOLA, Advocate(SR-27820[F] dated 01/09/2021)

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01.09.2021

MGJ(28.09.2021) 3P 4C