



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P.(MD) No. 320 of 2021 and

CMP(MD).No.6790 of 2021

WEB COPY

Santha Devi

... Petitioner/Respondent

-vs-

G.Murugiah

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP.No.66 of 2021 pending before the Sub Court, Sankarankovil, Tirunelveli District and transfer the same to the file of the Family Court, Thanjavur.

For Petitioner : Mrs.K.Saraswathi

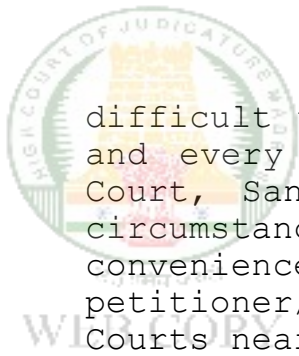
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP.No.66 of 2021 on the file of the Sub Court, Sankarankovil, Tirunelveli District and transfer the same to the file of the Family Court, Thanjavur.

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 23.11.2017 at Perumal Koil situated at Usilampatti Village as per Hindu Rites and Customs. The petitioner is presently working as a Teacher in Government School, Vallam. The respondent suppressing his earlier marriage had married the petitioner. The petitioner had filed HMOP.No.227 of 2018 before the III Additional Sub court, Madurai (Camp at Usilampatti) to declare the marriage between the petitioner and the respondent as null and void. Subsequently, the case was transferred from the file of the III Additional Sub court, Madurai (Camp at Usilampatti) and re-numbered as HMOP.No.99 of 2019 and it is pending on the file of the Family Court, Thanjavur. The respondent has filed HMOP.No.66 of 2021 on the file of the Sub Court, Sankarankoil, Thirunelveli District seeking for restitution on conjugal rights.

3.The learned counsel would further submit that though the marriage took place at Usilampatti and the parties were residing at Usilampatti only in order to harass the petitioner, the petition for restitution conjugal rights has filed at Sankarankoil by the respondent. He would further submit that the petitioner finds it



difficult to travel from Thanjavur to Sankarankovil to attend each and every hearing in HMOP.No.66 of 2021 on the file of the Sub Court, Sankarankovil. He 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.

4.Heard the learned counsel for the petitioner. Despite the service of notice, there is no representation for the respondent.

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 and in order to avoid conflicting decisions HMOP.No. 66 of 2021 is withdrawn from the file of the Sub Court, Sankarankoil, Thirunelveli District and transferred to the file of Family Court, Thanjavur to be tried along with HMOP.No.99 of 2019 pending on the file of the Family Court, Thanjavur for disposal as per law. The Sub Court, Sankarankoil, is directed to transmit the papers to the file of the Family Court, Thanjavur forthwith. The Family Court, Thanjavur is directed to club the case in HMOP.No.66 of 2021 along with HMOP.No.99 of 2019 together and dispose 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 (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp



To:

- 1.The Sub Judge, Sankarankovil, Tirunelveli District.
- 2.The Judge, Family Court, Thanjavur.

+1 CC to M/s.S.JAYAKUMAR, Advocate (SR-30923[F] dated 01/10/2021)

Tr.C.M.P.(MD) No. 320 of 2021 and
CMP(MD) .No.6790 of 2021
01.10.2021

SMV (CO) /RS (22.10.2021) 3P 4C