



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.317 of 2021

and

C.M.P(MD) No.6763 of 2021

Dhanapackiam

... Petitioner/ Respondent

Vs.

K.Karthikeyan

`... Respondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the case in H.M.O.P.No.124 of 2021 on the file of the Subordinate Court, Devakottai, Sivagangai District, to the Subordinate Court, Melur, Madurai District.

For Petitioner : Mr.NA.Palaniyandi

For Respondent : Mr.AL.Kannan

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.124 of 2021 from the file of the Subordinate Court, Devakottai, Sivagangai District and transfer the same to the file of the Subordinate Court, Melur, Madurai District.

2.The learned Counsel for the petitioner would submit that the marriage between the petitioner and respondent was solemnized on 04.09.2014 as per the Hindu rites and customs, at Dharmapatty Village, Sivagangai District. Out of the wedlock, the petitioner and the respondent have two female children, namely, Krishika, aged about 5 years and Yakshitha, aged about 2 years. The respondent, who is a Chief Mechanic in the Transport Corporation at Devakottai, used to physically harass the petitioner. During the month of November 2019, the petitioner was forced to leave the matrimonial home and she is presently residing with her parents. In the mean while, the respondent has filed a petition in H.M.O.P No 124 of 2021 on the file of the Subordinate Court, Devakottai, seeking for divorce. The respondent and his henchmen are in sound position attached with unconstitutional authorities and there is an



apprehension to the petitioner to go to Devakottai that she will be harassed by the respondent.

3.The learned Counsel for the petitioner would further submit that the petitioner finds difficult to travel along with two girl children all the way from Singampunarai to Devakottai, which is 55 kilometers far away from her residence and the distance to Melur is 30 kilometers only. Further, the respondent is working in the Transport Corporation and it would not be difficult for him to travel from Devakottai to Melur.

4.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 and children, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

5.The learned counsel for the respondent would submit that the respondent has filed a petition before the concerned jurisdictional Court and he would submit that the respondent is ready to pay the travelling expenses to the petitioner/ wife for travelling to Devakottai.

6.Heard the learned counsel on either side and perused the material available on records

7.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.**

8.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner and also considering the fact that the respondent, who is a Chief Mechanic working in the Transport Corporation at Devakottai, this Court finds that it is not difficult for him to travel from Devakottai to Melur and therefore, HMOP. No.124 of 2021 is withdrawn from the file of the Subordinate Court, Devakottai, Sivagangai District, and transferred to the file of the Subordinate Court, Melur, Madurai District, for disposal as per law. The Subordinate Court, Devakottai, is directed to transmit the papers to the file of the Subordinate Court, Melur, forthwith. The learned Subordinate Judge, Melur, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.



9. In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
Devakottai.

2.The Subordinate Judge,
Melur.

+1 CC to M/s.NA.PALANIYANDI, Advocate (SR-30770[F] dated
30/09/2021)

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RD(22.10.2021) 3P 4C