



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.316 of 2021

and

C.M.P. (MD)No.6736 of 2021

WEB COPY

B.Gomathi

... Petitioner

-vs-

M.Muneeshwaran

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No. 182 of 2020 from the file of the III Additional Sub Court, Madurai and transfer the same to the file of the Additional Sub Court, Tenkasi for trial.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.S.Ayyanar PremKumar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the HMOP No. 182 of 2020 from the file of the III Additional Sub Court, Madurai and transfer the same to the file of the Additional Sub Court, Tenkasi

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 08.03.2015 at Arulmighu Muthuvinayagar Mutharamman Temple, Kadayanallur as per Hindu rites and customs. After marriage the petitioner was residing at Madurai along with the respondent and out of the wedlock she gave birth to a female child by name Janani Sounderya on 21.05.2016. Thereafter the attitude of the respondent changed and he started harassing the petitioner and committed cruelty on her and also driven her out of the matrimonial home and she is now with her age old parents along with her daughter. The petitioner and her daughter are now being taken care by her parents and the daughter of the petitioner is now studying I standard at Joy Primary School, Kadayanallur. The respondent did not bother to take care of the petitioner and the child, whereas he has filed a petition in HMOP No. 182 of 2020 before the III Additional Sub Court, Madurai on the ground of cruelty making untenable allegations. The petitioner is a resident of Chokkampatti Village and she has to travel all the way from Chokkampatti, Tenkasi District to Madurai which is 260kms away and hence she seeks transfer of HMOP No. 182 of 2020 from the file of the III Additional Sub Court, Madurai to the file of the Additional Sub Court, Tenkasi.



3. The learned counsel 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. The learned counsel appearing for the respondent raised some objection for the case being transferred to the file of the Additional Sub Court, Tenkasi.

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 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 has 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 HMOP No.182 of 2020 is withdrawn from the file of III Additional Sub Court, Madurai and transferred to the file of Additional Sub Court, Tenkasi, for disposal as per law. The III Additional Sub Court, Madurai is directed to transmit the papers to the file of the Additional Sub Court, Tenkasi forthwith. The Additional Sub Court, Tenkasi, is directed to dispose the transferred HMOP No.182 of 2020 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 (AS)

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Sub Assistant Registrar (CS)

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To:

1. The III Additional Sub Judge, Madurai

2. The Additional Sub Judge, Tenkasi



Tr CMP (MD) No. 316 of 2021

+1 CC to M/s.S.AYYANAR PREM KUMAR, Advocate (SR-28546[F] dated
08/09/2021)

Tr.C.M.P. (MD) No.316 of 2021
and

C.M.P. (MD) No.6736 of 2021
07.09.2021

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