



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.332 of 2021

and

C.M.P(MD) No.6893 of 2021

M.Bharathi Divya

... Petitioner/Respondent

Vs.

M.Vishnukanth

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.77 of 2020 on the file of the Family Court, Theni and transfer the same to the file of the Family Court, Thoothukudi.

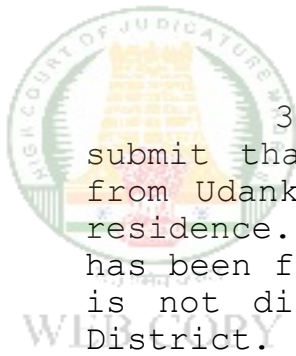
For Petitioner : Mr.N.Pragalathan

For Respondent : Mr.Amjad Khan
for APL Law Associates

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P. No.77 of 2020 from the file of the Family Court, Theni and transfer the same to the file of the Family Court, Thoothukudi.

2.The learned Counsel for the petitioner would submit that the marriage between the petitioner and respondent was solemnized on 22.10.2018 at T.Ramanujam Hall, Thamaraikulam-Periyakulam, as per the Hindu rites and customs. After the marriage, the petitioner and the respondent settled at Chennai, on account of employment of the respondent. Thereafter, the attitude of the respondent has changed and he had ill-treated the petitioner along with his sister. Thereafter, they shifted their residence to Theni. Even at Theni, the respondent and his family members ill-treated her and the petitioner was forced to leave the matrimonial home and she is presently residing with her father at Udankudi, Thoothukudi District. Moreover, the respondent mentally harassed the petitioner stating that he is going to marry another woman. In the mean while, the respondent has filed a petition in O.P No 77 of 2020 on the file of the Family Court, Theni, seeking for divorce.



3.The learned Counsel for the petitioner would further submit that the petitioner finds difficult to travel all the way from Udankudi to Theni, which is 255 kilometers far away from her residence. He would further submit that though the divorce petition has been filed at Theni, the respondent is working at Chennai and it is not difficult for him to attend the Court within Thoothukudi District.

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 apprehends if he comes to Thoothukudi, he will be physically abused by the relatives of the petitioner and thereby he would submit that he has no objection in the case being transferred to any Court other than in Thoothukudi District. He would further submit that a direction may be issued to the Trial Court for completing the trial as expeditiously as possible.

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 on either side, HMOP. No.77 of 2020 is withdrawn from the file of the Family Court, Theni and transferred to the file of the Family Court, Tirunelveli, for disposal as per law. The Family Court, Theni, is directed to transmit the papers to the file of the Family Court, Tirunelveli, forthwith. The learned Judge, Family Court, Tirunelveli, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible, preferably, within a period of nine months from the date of receipt of a copy of this order.



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

Sd/-

Assistant Registrar (CS-III)

// 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 Family Court,
Theni

2.The Family Court,
Tirunelveli.

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-30781[F] dated
30/09/2021)

Tr.C.M.P. (MD) No.332 of 2021
30.09.2021

NSN(CO)
KB(21.10.2021) 3P 4C