



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.324 of 2021**

WEB COPY

M.Azhageshwary

... Petitioner

-vs-

P.Mayandi

... Respondent

**PRAYER:** Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No.14 of 2021 on the file of the Sub Court, Theni, Theni District and to transfer the same to the Sub Court, Usilampatti, Madurai District.

For Petitioner : Mr.B.Chandran

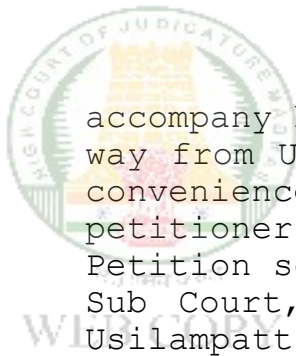
For Respondent : No appearance

**O R D E R**

The present Transfer Civil Miscellaneous Petition is filed to withdraw the petition in HMOP No.14 of 2021, on the file of the Sub Court, Theni, Theni District, and to transfer the same to the file of the Sub Court, Usilampatti, Madurai District.

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 08.06.2014. On 30.05.2016, the petitioner had given birth of a female child and she is now 5 years old. After few years of marriage, the attitude of the respondent and his family members towards the petitioner changed and they started quarrelling with the petitioner. Therefore, the respondent had taken the petitioner and her child and left them in her native place. Thereafter, the respondent did not come to see the petitioner and her child and further, despite to the request made by the petitioner, the respondent did not take back the petitioner and her child whereas, the respondent had filed a petition seeking for divorce in HMOP No.14 of 2021 on the ground of the desertion.

3. The learned counsel for the petitioner would further submit that the petitioner is residing in her native village Nalliveeranpatti, Seemanoothu, Usilampatti, which is not well-connected by transport. Further, the petitioner has nobody to



accompany her to Theni and she finds it difficult to travel all the way from Usilampatti to Theni along with her child. Considering the convenience and the comparative hardship faced by the petitioner/wife, she filed the present Transfer Civil Miscellaneous Petition seeking to transfer HMOP.No.14 of 2021, on the file of the Sub Court, Theni, Theni District, to the file of the Sub Court, Usilampatti, Madurai District.

4. Heard the learned counsel for the petitioner. Despite service of notice and name being printed in the cause list, 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 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***, reported in (2003)10 SCC 609, the Hon'ble Supreme Court has held that ***the convenience of the wife and moreso of the child 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. 14 of 2021 is withdrawn from the file of the Sub Court, Theni, Theni District, and transferred to the file of the Sub Court, Usilampatti, Madurai District, for disposal as per law. The Sub Court, Theni, is directed to transmit the papers to the file of the Sub Court, Usilampatti, Madurai District, forthwith. The Sub Court, Usilampatti, is directed to dispose of the transferred H.M.O.P.No.14 of 2021 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 (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csm/aav



To:

1.The Sub Court, Theni

2.The Sub Court, Usilampatti

WEB COPY  
+1 CC to M/s.B.CHANDRAN, Advocate ( SR-30963[F] dated 01/10/2021 )

**Tr.C.M.P. (MD) No.324 of 2021**

**01.10.2021**

RD(21.10.2021) 3P 4C