



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.09.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Tr.CMP(MD)No.316 of 2020

and

CMP(MD)No.7010 of 2020

WEB COPY

Muthumeena Petitioner/Respondent

-Vs-

Karthick ... Respondent/Petitioner

Prayer:The Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw the case in H.M.O.P.No.51 of 2020 on the file of the Sub Court, Aranthangi and transfer the same to the file of the Sub Court, Devakottai.

For Petitioner : Mr.N.Mohan
For Respondent : No Appearance

ORDER

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No.51 of 2020, pending on the file of the Sub Court, Aranthangi and to transfer the same to the file of Sub Court, Devakottai.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 22.01.2017. The respondent is a close relative of the petitioner. At the time of marriage the respondent was employed at Oman and parents of the petitioners agreed for the marriage on the assurance given by the respondent and that he would take the petitioner to Oman after marriage, whereas the respondent after marriage left the petitioner with his parents and left Oman. The petitioner was not treated properly in the matrimonial home. After the marriage the petitioner delivered a male child on 21.11.2013. The parents of the respondents did not take care of the petitioner and the child and thereby she was forced to return to her parental home at Devakottai. The petitioner's father is running a small tea shop and with that meagre income and he has take care of the petitioner and her child. The petitioner and her parents were under the impression that the respondent would come back to take her back to Oman. Whiles, the respondent has filed HMOP No. 51 of 2020 seeking for divorce before the Sub Court, Aranthangi by levelling various allegations against the petitioner. The petitioner and her child are under the care and custody of her father. The respondents who is gainfully employed in Oman not even bothered to maintain the petitioner and her child. The petitioner has no means to travel to Aranthangi which is about 60km from her home. She also feels that it is very difficult to travel with the child , thereby taking into



consideration the hardship and the convenience of the petitioner, the present petition has been filed seeking transfer the case has been filed on the file of the Sub Court, Devakottai , which is only 8km from home town.

3.The learned counsel 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 child, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, the present petition has been filed seeking for transfer of the case to the Sub Court, Devakottai.

4.Heard the learned counsel for the petitioner. Though notice was served on the respondent and his name being printed in the cause-list, there is no appearance on behalf of the respondent, either in person or through his counsel.

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 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.51 of 2020 is withdrawn from the file of Sub Court, Aranthangi and transferred to the file of Sub Court, Devokottai for disposal as per law. The Sub Court, Aranthangi, is directed to transmit the papers to the file of the Sub Court, Devokottai, forthwith. The Sub Court, Devokottai is directed to dispose H.M.O.P.No.51 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 closed.

Sd/-

Assistant Registrar (AD-II)

// 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.

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To

- 1.The Sub Court, Aranthangi.
- 2.The Sub Court, Devakottai.

Tr.CMP (MD) No.316 of 2020
03.09.2021

SMV (CO)
KB (30.09.2021) 3P 3C