



WEB COPY

Tr CMP (MD) No. 336 of 2021

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.336 of 2021
and C.M.P. (MD) No.6931 of 2021

Rafahnah Yasmeen

... Petitioner/Defendant

-vs-

Mohamed Salman Faris

... Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the plaint in O.S.No.171 of 2021 on the file of the Family Court No.V, Chennai, and to transfer the same to the file of the District Munsif Court, Sessions Court Complex, Ramanathapuram or any other Court.

For Petitioner : Mr.L.Prabhu

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the plaint in O.S.No.171 of 2021, on the file of the Family Court No.V, Chennai, and to transfer the same to the file of any other Court in Ramanathapuram 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 15.05.2016 at ABC Mydeen Hall, Bharathi Nagar, Ramanathapuram, in accordance with the Muslim Rites and Customs. Subsequently, out of the wedlock, the petitioner and the respondent were blessed with a male child aged about 4 years. Both the petitioner and the respondent hail from Ramanathapuram District. After marriage for sometime, the petitioner and the respondent were living at Chennai and thereafter, due to the harassment, the petitioner was forced to leave the matrimonial home and presently, the petitioner is living with her parents-in-law at her native village Panaikulam, Ramanathapuram District. While so the respondent has filed a petition seeking for dissolution of marriage in O.S.No.171 of 2021 and the same is pending on the file of the Family Court No.V, Chennai. Despite the advice given by his parents to join with the petitioner, the respondent is adamant and he has filed a petition at Chennai with the intention of getting an exparte order behind the back of the petitioner.

3. The learned counsel for the petitioner would further
<https://hcservices.ecourts.gov.in/hcservices/>



submit that petitioner is now staying with her parents-in-law, who are now supporting her and she find its difficult to travel all the way from Ramanathapuram to Chennai along with her child.

4. The learned counsel would further submit that since the respondent's native place is in Ramanathapuram District and his parents and relatives are also in Ramanathapuram District, it would not be inconvenient for him to conduct the case at Ramanathapuram. The petitioner filed the present Transfer Civil Miscellaneous Petition seeking to transfer O.S.No.171 of 2021, on the file of the Family Court No.V, Chennai, and to transfer the same to the file of the any other court in Ramanathapuram District.

5. 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.

6. 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..***

7. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, O.S.No.171 of 2021 is withdrawn from the file of the Family Court No.V, Chennai, and transferred to the file of the Family Court, Ramanathapuram, for disposal as per law. The Family Court No.V, Chennai, is directed to transmit the papers to the file of the Family Court, Ramanathapuram, forthwith. The Family Court, Ramanathapuram, is directed to dispose of the transferred O.S.No.171 of 2021 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To:

1. The Judge,
The Family Court No.V, Chennai

2. The Judge,
The Family Court, Sessions Court Complex,
Ramanathapuram.

+1 CC to M/s.L.PRABHU, Advocate (SR-30934[F] dated 01/10/2021)

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RD(21.10.2021) 3P 4C