



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.344 of 2021

and

C.M.P. (MD) No.6988 of 2021

WEB COPY

R.Parameswari

... Petitioner/Respondent

Vs.

P.Raja

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.229 of 2020 on the file of Subordinate Court, Sivakasi and transfer the same to the file of the Subordinate Court, Sankarankovil.

For Petitioner : Mr.R.J.Karthick

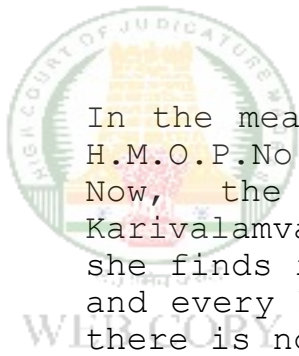
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in H.M.O.P.No.229 of 2020 from the file of the Subordinate Court, Sivakasi and transfer the same to the file of Subordinate Court, Sankarankovil.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 09.12.2010 at Sree Kannakkan Temple Marriage Auditorium, Ayyanar colony, Sivakasi. After the marriage, the petitioner and the respondent lived happily in the respondent's home at Sithurajapuram, Virudhunagar District. Out of their wedlock, the petitioner and the respondent have two children, namely, Deepika, aged about 8 years and Krithick, aged about 5 years. After some time, there was a complete change in the behaviour of the respondents. Due to the continuous torture given by the respondent and his mother, the petitioner was forcibly driven out from the matrimonial home on 03.08.2017. The respondent has filed a petition in H.M.O.P.No.288 of 2017, on the file of the Subordinate Court, Sivakasi, seeking for restitution of conjugal rights. In the mean while, the petitioner and the respondent decided to reunite and lived together and hence, the said HMOP petition was dismissed.

3.Thereafter, the respondent has pledged the petitioner's 10 sovereigns of jewels for family purpose. When the petitioner enquired about the pledged jewels, again there occurred a rift between the petitioner and the respondent and once again the petitioner was forced to leave the matrimonial home with children.



In the mean while, the respondent has filed a divorce petition in H.M.O.P.No.229 of 2020, on the file of Subordinate Court, Sivakasi. Now, the petitioner is residing in her parental home at Karivalamvanthanallur, Sankarankovil, Tenkasi District and hence, she finds it very difficult to travel for more than 60 kms. for each and every hearing and the mother of the petitioner is also sick and there is nobody to accompany her to Court.

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.Heard the learned counsel for the petitioner. Despite service of notice and name being printed in the cause list, there is no representation on behalf of the respondent, either in person or through counsel.

6.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.***

7.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, H.M.O.P.No.229 of 2020 is withdrawn from the file of the Subordinate Court, Sivakasi and transferred to the file of the Subordinate Court, Sankarankovil, for disposal as per law. The Subordinate Court, Sivakasi, is directed to transmit the papers to the file of the Subordinate Court, Sankarankovil, forthwith. The Subordinate Court, Sankarankovil, is directed to dispose of the same 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 (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



rm

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 Subordinate Court,
Sivakasi.

2.The Subordinate Court,
Sankarankovil.

Tr.C.M.P. (MD) No.344 of 2021
07.10.2021

CM (ASO) (CO) /RS (22.10.2021) 3P 3C