



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.359 of 2021

and

C.M.P (MD) No.7241 of 2021

WEB COPY

S.Jansi Priya

... Petitioner/Respondent

Vs.

D.C.Mahendran

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No.386 of 2020 on the file of the Family Court, Thoothukudi and transfer the same to be tried along with HMOP No.12 of 2020 on the file of the Sub Court, Hosur, Krishnagiri District.

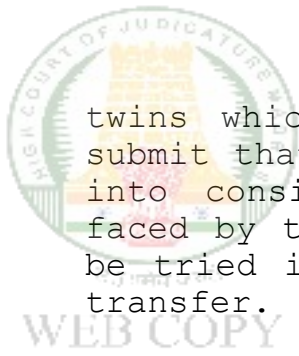
For Petitioner : Mr.P.Banuprasath

For Respondent : No Appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the HMOP No.386 of 2020 on the file of the Family Court, Thoothukudi and transfer the same to be tried along with HMOP No.12 of 2020 on the file of the Sub Court, Hosur, Krishnagiri District.

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 26.04.2010 at Abirami Mahal, Thoothukudi and the marriage was registered at the District Registrar Office, Thoothukudi on 30.08.2010. He would further submit that the petitioner was working as Assistant Manager in Union Bank of India in Hosur and the respondent was working as a Senior Section Engineer at Bangalore Division, South Western Railway. Out of the wedlock the petitioner is blessed with female twins. Thereafter the respondent had left the matrimonial home and he is living separately. Steps were taken by well wishers of both the family for re-union , however the respondent did not agree to join with the petitioner, thereby the petitioner has filed HMOP No. 12 of 2020 on the file of the Sub Court, Hosur seeking for restitution of conjugal rights. After receiving the summons the respondent had filed petition for divorce in HMOP No.386 of 2020 on the file of the Family Court, Thoothukudi. Though the respondent is working at Bangalore inorder to cause hardship and harassment to the petitioner he has instituted HMOP No.386 of 2020 on the file of the Family Court, Thoothukudi. The petitioner finds it very difficult to travel all the way from Hosur to Thoothukudi along with her



twins which is about 546kms. The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration the convenience and the comparative hardship faced by the petitioner/wife had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

3. Heard the learned counsel for the petitioner. Private notice served, proof filed. None appeared on behalf of the respondent.

4.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**, the Hon'ble Supreme Court reported in (2003)10 SCC 609 has held that **the convenience of the wife and moreso of the child must be taken into account while deciding the petition for transfer**.

5.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.386 of 2020 is withdrawn from the file of Family Court, Thoothukudi and transferred to the file of the Sub Court, Hosur for disposal as per law. The Family Court, Thoothukudi , is directed to transmit the papers to the file of the Sub Court, Hosur, forthwith. The learned Sub Court, Hosur is directed to dispose transferred H.M.O.P. No.386 of 2020 along with H.M.O.P.No.12 of 2020 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (CS I)

// 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.

<https://hcservices.ecourts.gov.in/hcservices/>



To:

1.The Judge,Family Court, Thoothukudi

2.The Sub Judge,Hosur.

+1 CC to M/s.P.BANU PRASATH, Advocate(SR-32182[F] dated
21/10/2021)

Tr.C.M.P. (MD) No.359 of 2021

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MGJ/JGB(01.11.2021) 3P 4C