



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.373 of 2021

and

C.M.P. (MD) No.7441 of 2021

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M.Bharathamuthuselvi ... Petitioner/Respondent

Vs.

B.Rajeshkani ... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP No.72 of 2021 on the file of the Family Court, Theni and to transfer to the file of the Subordinate Court, Mudhukulathur, Ramanathapuram District.

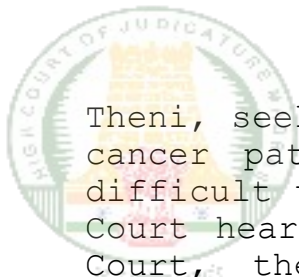
For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondent : Mr.M.Jerin Mathew

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in HMOP No.72 of 2021 from the file of the Family Court, Theni and to transfer the same to the file of the Subordinate Court, Mudhukulathur, Ramanathapuram District.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 21.02.2011 at Vasantha Mahal, Theni. At the time of marriage, the parents of the petitioner have given 50 sovereigns of gold jewels to her and 5 sovereigns of gold jewels to the respondent as dowry. Further, the household articles worth about Rs.3,00,000/- were also given to him. After the marriage, the petitioner was working in a private School upto 2012 and she has also taken private tuition. The entire income of the petitioner was handed over to the mother-in-law of the petitioner. Since, the petitioner did not conceive, the respondent and his mother started to harass the petitioner for petty reasons and unable to bear the torture and humiliation, the petitioner is now residing with her parents. In the mean while, the petitioner was diagnosed with Breast Cancer and she is taking treatment at Adayar Cancer Institute, Chennai. The respondent did not take care of the petitioner or did not spend any amount for treatment of the petitioner, the petitioner had demanded the respondent to return the jewels, which were handed over to him during the marriage. In order to evade payment of money and return of the jewels, the respondent has filed H.M.O.P.No.72 of 2021, on the file of the Family Court,



Theni, seeking for dissolution of marriage. The petitioner, being a cancer patient is physically weak and therefore, she finds it difficult to travel all the way from Kamudhi to Theni, to attend the Court hearings. He would further submit that only in the Family Court, the presence of the parties are required and in the Subordinate Court, the respondent need not to be appeared in person on each and every hearing and hence, no prejudice will be caused to the respondent.

3.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, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

4.The learned counsel for the respondent would submit that the respondent has to travel all the way from Theni to Mudhukulathur, which is about 200 kms away.

5.Heard the learned counsel on either side and perused the material available on records.

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 on either side, HMOP No.72 of 2021 is withdrawn from the file of Family Court, Theni, and transferred to the file of Subordinate Court, Mudhukulathur, Ramanathapuram District, for disposal as per law. The Family Court, Theni, is directed to transmit the papers to the file of the Subordinate Court, Mudhukulathur, forthwith. The Subordinate Court, Mudhukulathur, 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 (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 Judge,
Family Court,
Theni.

2.The Subordinate Judge,
Mudhukulathur,
Ramanathapuram District.

+1 CC to M/s.M.JERIN MATHEW, Advocate(SR-31638[F] dated 07/10/2021)

Tr.C.M.P. (MD) No.373 of 2021
07.10.2021

MGJ(25.10.2021) 3P 4C