



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P.(MD) No.366 of 2021

and

C.M.P.(MD) No.7402 of 2021

N. Nalini

... Petitioner/Respondent

-vs-

P.Tu.Arun

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP.No.139 of 2021 on the file of the Family Court, Dindigul and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.R.Karunanithi

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the petition in HMOP.No.139 of 2021 on the file of the Family Court, Dindigul and transfer the same to the file of Family Court, Madurai.

2.The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 11.12.2005 at Maniram Kalyana Mandabam, Madurai as per Hindu Rites and Customs. After marriage, the petitioner and the respondent were blessed with a female child on 22.07.2011 and a male child on 10.08.2016. Thereafter, the petitioner and the respondent lived at USA for sometime and returned back to India. Later, the attitude of the respondent towards the petitioner changed and he started to abuse the petitioner physically for no reason and thereby, the petitioner was forced to leave the matrimonial home and she is now at mercy of her parents at Madurai. The female child is with the custody of the respondent and the male child aged about 5 years with the custody of the petitioner. After driving out from the matrimonial home, the respondent has filed a petition for dissolution of marriage before the Family Court, Dindigul on the ground of wilful desertion.

3.The learned counsel appearing for the petitioner would further submit that the petitioner finds it difficult to travel from Madurai to Dindigul along with her five year old child. He would further submit that in similar circumstances, the Hon'ble Apex Court



taking into consideration of 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, she seeks for transfer.

4. 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.

5. 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..***

6. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No. 139 of 2021 is withdrawn from the file of Family Court, Dindigul and transferred to the file of Family Court, Madurai, for disposal as per law. The learned Judge, Family Court, Dindigul is directed to transmit the papers to the file of the Family Court, Madurai forthwith.

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

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To:

1. The Judge, Family Court, Dindigul
2. The Judge, Family Court, Madurai.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-30638[F] dated 29/09/2021)

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