



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.361 of 2021
and C.M.P. (MD) No.7315 of 2021

WEB COPY

Vishalatchi @ Vishali

... Petitioner/Respondent

-vs-

M.Prabhakaran

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No.156 of 2020 on the file of the Sub Court, Theni, and to transfer the same to the Sub Court, Srivilliputtur, Virudhunagar District.

For Petitioner : Mr.S.Muniyandi

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the petition in HMOP No.156 of 2020, on the file of the Sub Court, Theni, and to transfer the same to the file of the Sub Court, Srivilliputtur, Virudhunagar 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 25.05.2018 as per Hindu Rites and Customs at Kumaran Mahal, Theni Main Raod, Jakkammappatti, Theni District. The respondent was employed at North India and the petitioner had accompanied him to North India and she had returned back to parental house to delivery. Out of the wedlock, the petitioner and the respondent blessed with a male child on 06.03.2020. After birth of the child, the attitude of the respondent changed and he avoided contacting the petitioner. Steps taken by family members for reunion did not fructify, whereas, for the reasons best known the respondent had filed a divorce application in HMOP No.156 of 2020 on the file of the Sub Court, Theni, on the ground of desertion.

3.The learned counsel for the petitioner would further submit that the respondent is not at all giving any maintenance to the petitioner and her child and she finds it very difficult to travel all the way from her native place to Theni along with her child. Considering the convenience and the comparative hardship faced by the petitioner/wife, she filed the present Transfer Civil Miscellaneous Petition seeking to transfer HMOP No.156 of 2020, on the file of the Sub Court, Theni, to the file of the Sub Court,



Srivilliputtur, Virudhunagar.

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.

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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. 156 of 2020 is withdrawn from the file of the Sub Court, Theni, and transferred to the file of the Sub Court, Srivilliputtur, Virudhunagar District, for disposal as per law. The Sub Court, Theni, is directed to transmit the papers to the file of the Sub Court, Srivilliputtur, Virudhunagar District, forthwith. The Sub Court, Srivilliputtur, Virudhunagar District, is directed to dispose of the transferred HMOP No.156 of 2020 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar (CS)

csn/aav

To:

1. The Sub Judge, Theni.
2. The Sub Judge, Srivilliputtur, Virudhunagar.

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CM (ASO) (CO) /RS (22.10.2021) 2P 3C