



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.371 of 2021

and

C.M.P. (MD) No.7432 of 2021

WEB COPY

K.Manimegalai

... Petitioner/Respondent

Vs.

P.Vinothkumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Code of Civil Procedure, to withdraw the HMOP No.1288 of 2019 on the file of the Family Court, Madurai District and to transfer the same to the file of the Principal Subordinate Court, Dindigul District and to try along with HMOP No.127 of 2021.

For Petitioner : Mr.A.Haja Mohideen

For Respondent : Mr.V.S.Kishok Kumar

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in HMOP No.1288 of 2019 from the file of the Family Court, Madurai and transfer the same to the file of the Principal Subordinate Court, Dindigul, and to try along with HMOP No.127 of 2021.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 08.09.2017 at Ganapathy Subramaniyam Marriage Hall, Virattipathu, Madurai District. Out of the wedlock, the petitioner delivered a female child on 31.08.2018. After the birth of the child, the respondent did not take care of the petitioner and her child and with great struggle the petitioner is bringing up the child. Since the respondent did not take care of the petitioner, the petitioner was forced to leave the matrimonial home and presently living with her parents at Thathankulam, Nilakottai Taluk, Dindigul District. Since the respondent neglected the petitioner and the child and also harassed her, the petitioner had filed DVOP No.4 of 2020 on the file of the Judicial Magistrate, Nilakottai. In order to evade from the payment of maintenance to the petitioner and her child, the respondent had



rushed to the Court and filed HMOP No.1288 of 2019 on the file of the Family Court, Madurai, seeking for restitution of conjugal rights. When the petitioner appeared on 26.02.2020, the respondent along with his friends had threatened her not to attend the Court hearings. In the mean while, the petitioner has filed HMOP No.127 of 2021 on the file of the Principal Subordinate Court, Dindigul, seeking for divorce on the ground of desertion and cruelty.

3.The learned counsel for the petitioner would further submit that the petitioner finds it difficult to travel all the way from Mattapaarai to Madurai to attend the Court hearings and she has to catch three buses to travel with her child and she has nobody to accompany her and to take care of her and child. He would further submit that the both cases are same subject matter and the parties are same and in order to avoid multiplicity of proceedings and to avoid conflicting decisions and thereby, the present petition has been filed for transfer.

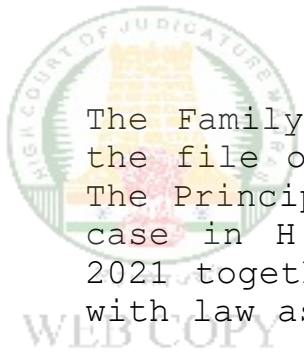
4.The learned counsel for the petitioner would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration of the inconvenience and the comparative hardship faced by the petitioner/wife and child, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

5.The learned counsel for the respondent would submit that the respondent finds difficult to travel from Madurai to Dindigul and the respondent has filed a petition before the concerned jurisdictional Court.

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

7.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.***

8.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel on either side, HMOP No.1288 of 2019 is withdrawn from the file of Family Court, Madurai, and transferred to the file of the Principal Subordinate Court, Dindigul, for disposal as per law.



The Family Court, Madurai, is directed to transmit the papers to the file of the Principal Subordinate Court, Dindigul, forthwith. The Principal Subordinate Court, Dindigul, is directed to club the case in H.M.O.P. No.1288 of 2019 along with H.M.O.P. No.127 of 2021 together and dispose of the same on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar ()

// 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 Principal Subordinate Judge,
Dindigul,
- 2.The Presiding Officer,
Family Court,
Madurai.

Tr.C.M.P. (MD) No.371 of 2021
06.10.2021

RK (22/10/2021) 3P 3C