



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.380 of 2021

and

C.M.P (MD) No.7560 of 2021

WEB COPY

Uma Maheswari

... Petitioner/Respondent/Wife

Vs.

Senthilvel

... Respondent/Petitioner/Husband

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.90 of 2021 pending before the Subordinate Court, Tiruchendur and transfer the same to the Family Court, Tirunelveli.

For Petitioner	: Mr.R.Maheswaran for Mr.C.Susi Kumar
For Respondent	: Mr.Adithya Vijayalayan for Mr.D.Venkatesh

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.90 of 2021 from the file of the Subordinate Court, Tiruchendur and transfer the same to the file of the Family Court, Tirunelveli.

2.The learned Counsel for the petitioner would submit that the marriage between the petitioner and respondent was solemnized on 12.09.2018 at DAB Marriage Hall, Kurumbur, Tuticorin District as per Hindu rites and customs. The respondent is working as a Technician at Nuclear Fuel Complex attached with Koodankulam Nuclear Power Plant. After marriage, the mother and sister of the respondent harassed the petitioner and demanded additional dowry of Rs.5,00,000/-. Since she failed to bring the additional dowry, she was forcibly sent to her parental home. The petitioner is presently living with her parents. The petitioner filed a petition for restitution of conjugal rights in H.M.O.P.No.151 of 2020 and also filed M.C.No.5 of 2021 for maintenance before the Family Court, Tirunelveli. As a counter-blast, the respondent has filed a divorce petition in H.M.O.P.No.90 of 2021, on the file of the Subordinate Court, Tiruchendur. He would further submit that the petitioner being a sick lady, finds it difficult to travel for more than 53 kms. for each and every hearing.

3.The learned counsel for the petitioner would further submit that in similar circumstances, the Hon'ble Apex Court taking into

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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, she seeks for transfer.

4.The learned counsel for the respondent would submit that the marriage between the petitioner and the respondent was solemnized at Kurumbur within the jurisdiction of Tiruchendur Court and hence, respondent has filed a petition before the concerned jurisdictional Court, seeking for divorce.

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 and also considering the cases filed by the petitioner are pending before the file of the Family Court, Tirunelveli and the respondent is also working at Koodankulam and therefore, HMOP. No.90 of 2021 is withdrawn from the file of the Subordinate Court, Tiruchendur and transferred to the file of the Family Court, Tirunelveli, for disposal as per law. The Subordinate Court, Tiruchendur, is directed to transmit the papers to the file of the Family Court, Tirunelveli, forthwith. The learned Judge, Family Court Tirunelveli, is directed to club the case in H.M.O.P.No.90 of 2021 along with H.M.O.P.No.151 of 2020 and M.C. No.5 of 2021 together and 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 (CS III)

// 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 Subordinate Judge,
Tiruchendur.

2.The Judge,
Family Court,
Tirunelveli.

Tr.C.M.P. (MD) No.380 of 2021
30.09.2021

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