



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.375 of 2021

and

C.M.P(MD) No.7492 of 2021

WEB COPY

A.Emily Sharan

... Petitioner/Respondent

Vs.

A.Robinrathprakash

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the IDOP No. 48 of 2021 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur filed by the respondent/petitioner to the file of the Family Court, Trichy

For Petitioner : Mr.B. Jameel Arasu

For Respondent : No Appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the IDOP No. 48 of 2021 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur filed by the respondent/petitioner to the file of the Family Court, Trichy

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 17.01.2019 as per christian rites and customs at Trichy. At the time of marriage, the parents of the petitioner have given huge amount for sreedhana and other household articles. Though the petitioner has completed graduation she is not working and the respondent is working as Engineer in Bangalore, thereby after marriage they both stayed at Bangalore. They have no issues out of the marriage. While during the stay at Bangalore there was difference of opinion between the petitioner and the respondent and the petitioner was driven out of the matrimonial home. The petitioner is presently residing at Trichy with her age old parents. Despite the steps taken by the family members and wellwishers for re-union the respondent did not handover the articles whereas on flimsy grounds the respondent had filed a petition seeking for dissolution of marriage before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in IDOP No. 48 of 2021. Since the



parents of the petitioner are aged there is nobody to accompany her to travel from Virudhunagar to Trichy which is about 200 km to attend the hearing. He would further submit that the respondent is presently working in Bangalore and it is not difficult for him to travel to Trichy from Bangalore. The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration 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, he seeks for transfer.

3. Heard the learned counsel for the petitioner. Though notice served on the respondent and name printed in the cause none appeared on behalf of the respondent.

4. 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 must be taken into account while deciding the petition for transfer***.

5. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, IDOP No. 48 of 2021 is withdrawn from the file of learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and transferred to the file of the Family Court, Trichy for disposal as per law. The learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, is directed to transmit the papers to the file of the Family Court, Trichy, forthwith. The learned Family Court, Trichy is directed to dispose transferred IDOP No. 48 of 2021 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (CS-III)

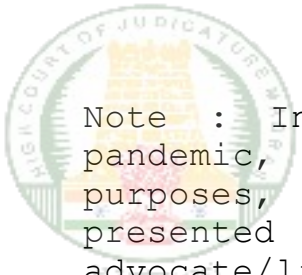
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Sub Assistant Registrar (CS)

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To:

- 1.The Principal District and Session Judge,
Virudhunagar District at Srivilliputhur.
- 2.The Judge.
Family Court,
Trichy.

Tr.C.M.P. (MD) No.375 of 2021
and
C.M.P (MD) No.7492 of 2021
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