



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.372 of 2021

and

C.M.P (MD) No.7440 of 2021

WEB COPY

K.Janaki

... Petitioner/Respondent

Vs.

N.Krishnakumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the F.C.O.P.No.162 of 2021 from the file of the Family Court, Erode and transfer the same to the file of the Principal Sub Court, Palani for trial.

For Petitioner : Mr.D.Venkatesh

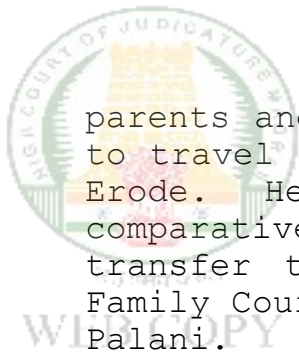
For Respondent : Mr.R.Niresh Kumar

O R D E R

The Transfer Civil Miscellaneous Petition has been filed to withdraw the petition in F.C.O.P.No.162 of 2021 from the file of the Family Court, Erode and transfer the same to the file of the Principal Subordinate Court, Palani.

2.The learned Counsel for the petitioner would submit that the marriage between the petitioner and respondent was solemnized on 10.02.2019 at Shri Ponkali Amman Temple, Sivagiri, as per the Hindu rites and customs. After the marriage, the attitude of the respondent has changed and he becomes suspicious and frequently quarrelled with the petitioner. Since there was a continuous harassment, the petitioner was forced to leave her matrimonial home and she made a complaint before the Social Welfare Officer at Dindigul, as against the respondent. Based on the complaint, D.V.O.P.No.07 of 2021 was initiated and the same is pending before the Judicial Magistrate, Oddanchatram.

3.The learned counsel for the petitioner would further submit that the respondent has also filed a petition in F.C.O.P.No.162 of 2021 on the file of the Family Court, Erode seeking for divorce. The petitioner is solely depending upon her



parents and she is residing at Oddanchatram and she finds difficult to travel for more than 115 kms. to attend the Court proceedings at Erode. He would further submit that due to inconvenience and the comparative hardship faced by the petitioner/wife, she requires to transfer the case in F.C.O.P.No.162 of 2021 on the file of the Family Court, Erode, to the file of the Principal Subordinate Court, Palani.

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 children, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

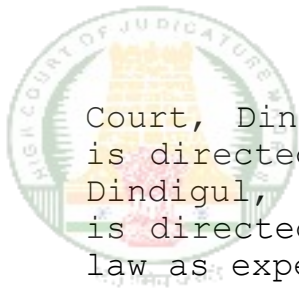
5.The learned counsel for the respondent would submit that the petitioner suppressed her earlier marriage and she was also a divorcee. In the declaration given before the Marriage Registration Department and also in the temple before the authorities, the petitioner has voluntarily declared that she is a spinster. When this was questioned by the respondent, the petitioner and her father have assaulted the respondent and thereby the respondent has given a complaint to the Sivagiri Police Station and a case has been taken up for enquiry in CSR.No.20 of 2021. Due to the assault, the respondent sustained injuries and that he was also hospitalized at Government Hospital, Kodumudi.

6.The learned counsel for the respondent would further submit that if the respondent goes to Palani, there is an apprehension that he might be once again assaulted by the petitioner and her father. However, he would further submit that he has no objection that the case has been transferred to any other Court other than Palani and more particularly, the Court in Dindigul.

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

8.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.***

9.Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel on either side, FCOP.No.162 of 2021 is withdrawn from the file of the Family Court, Erode, and transferred to the file of the Family



Court, Dindigul, for disposal as per law. The Family Court, Erode, is directed to transmit the papers to the file of the Family Court, Dindigul, forthwith. The learned Judge, Family Court, Dindigul, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.

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10. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Family Court,
Erode.

2.The Family Court,
Dindigul.

Tr.C.M.P. (MD) No.372 of 2021
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MGJ(21.10.2021) 3P 3C