



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.450 of 2019

and

C.M.P. (MD)No.10391 of 2019

WEB COPY

M.Deepa @ Sadaiyeeswari

... Petitioner

-vs-

M.Ilangovan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP No. 100 of 2019 on the file of the Sub Court, Kulithalai, Karur District and transfer the same to the Family Court, Madurai.

For Petitioner : Mr.Ayyanar Premkumar

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No. 100 of 2019 on the file of the Sub Court, Kulithalai, Karur District and transfer the same to the file of the Family Court, Madurai.

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 04.07.2011 at Tirupur as per the Hindu rituals and Customary practices. It was a love marriage. Both the petitioner and the respondent were working in the textile factory at Tirupur. After six months of marriage the matrimonial home was shifted by the respondent to his parental home at Kulithalai, Karur District and the petitioner gave birth to the female child namely Mugila on 08.11.2012. Thereafter the respondent and his family members changed their attitude towards the petitioner and they started harassing the petitioner asking her to bring dowry from her parental home. When the petitioner refused accept their demand they started physically assaulting her and had driven her out of the matrimonial home. The petitioner is now at Madurai under the mercy of her age old parents . Now the respondent has filed a petition for divorce in HMOP No.100 of 2019 before the Sub Court, Kulithalai and the petitioner has received summons. He would further submit that the petitioner has to travel almost 290 kms to attend the Court and the petitioner finds it very difficult to travel all the way to travel to Karur without any financial support. Further the petitioner is in vulnerable position and without help of other person it is very difficult for her to travel to some other district and if the case is transferred to the file of the Family Court, Madurai she would be able to contest the case herself



without any legal assistance, thereby he seeks transfer of the case from Kulithalai to Madurai.

3. Heard the learned counsel for the petitioner. Private notice served, proof filed. This Court ordered the counsel for the petitioner to serve notice on the counsel for the respondent appearing before the lower Court and name printed in the cause list, 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**, the Hon'ble Supreme Court reported in (2003)10 SCC 609 has held that **the convenience of the wife and moreso of the child 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, HMOP No. 100 of 2019 is withdrawn from the file of Sub Court, Kulithalai, Karur District and transferred to the file of Family Court, Madurai for disposal as per law. The Sub Court, Kulithalai, Karur District, is directed to transmit the papers to the file of the Family Court, Madurai. The Family Court, Madurai, is directed to dispose HMOP No.100 of 2019 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 also closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To:

1.The Sub Judge, Kulithalai, Karur District

2.The Judge, Family Court, Madurai

+1 CC to M/s.S.AYYANAR PREM KUMAR, Advocate (SR-26452[F] dated 16/08/2021)

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