



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.478 of 2019

and

C.M.P. (MD)No.11223 of 2019

WEB COPY

Mahalakshmi

... Petitioner

-vs-

Palavesam @ Balakrishnan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP No.1350 of 2019 on the file of the Family Court, Coimbatore and transfer the same to the Sub Court, Tuticorin.

For Petitioner : Mr.V.Malaiyendran

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No.1350 of 2019 on the file of the Family Court, Coimbatore and transfer the same to the Sub Court, Tuticorin.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 04.09.2017 at Srikalyana Venkatraman Temple, Uppurandha Veethi, Coimbatore as per the Hindu rites and customs. At the time of marriage 10 sovereigns of gold jewels, sridhana articles worth about Rs.50,000/- and cash of Rs.1,50,000/- was given by the parents of the petitioner to the respondent. The petitioner and the respondent started their matrimonial life happily and out of their wedlock they were blessed with a female child on 21.09.2018. Thereafter the respondent started demanding more dowry and started harassing the petitioner and the petitioner was driven out of the matrimonial home. He would further submit that the petitioner under the fond hope that the respondent would come and take her back to the matrimonial home, whereas the respondent did not contact her and thereby the petitioner has filed a petition in HMOP No.239 of 2019 on the file of the Sub Court, Thoothukudi seeking for restitution of conjugal rights. In the meanwhile the respondent had filed petition in HMOP No.1350 of 2019 on the file of the Family Court, Coimbatore seeking for divorce alleging untenable grounds. He would also submit that the petitioner is aged about 26 years and she is at the mercy of her parents and she has to take care of her daughter who is aged about 3 years old. The petitioner has to travel all the way from Tuticorin to Coimbatore to attend the case and there is nobody to accompany her and take care of the child, thereby the petitioner seeks transfer of HMOP No.1350 of 2019 on the file of the Family Court, Coimbatore to the file of the Sub



Court, Tuticorin

3.Though private notice was served on the respondent and proof filed, none appeared for the respondent.

4.The marriage between the petitioner and the respondent was solemnized 04.09.2017 at Srikalyana Venkatraman Temple, Uppurandha Veethi, Coimbatore. The petitioner being a lady has to travel all the way from the Tuticorin to Coimbatore. Her parents are old and there is nobody to accompany her at Coimbatore and she is also having no place to stay at Coimbatore.

5.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 petition 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 more so of the child must be taken into account while deciding the petition for transfer**

6.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.1350 of 2019 is withdrawn from the file of the Family Court, Coimbatore and transferred to the file of Sub Court, Tuticorin, for disposal as per law. The Family Court, Coimbatore, is directed to transmit the papers to the file of the Sub Court, Tuticorin, forthwith. The Sub Court, Tuticorin, is directed to dispose HMOP No.1350 of 2019 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

- 1.The Family Court, Coimbatore.
- 2.The Sub Court, Tuticorin.

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