



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.251 of 2022

and

C.M.P.No.5071 of 2022

Meena

.. Petitioner

vs

A.Nagaraj

.. Respondent

Prayer: Transfer CMP is filed under Section 24 of the Civil Procedure Code, to withdraw the case in H.M.O.P.No.547 of 2021 on the file of the Hon'ble Family Court, Salem and transfer the same to the Hon'ble Sub-Ordinate Court, Kallakurichi, Kallakurichi District.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondent : No Appearance



ORDER

WEB COPY

The transfer petition is filed to withdraw the case in H.M.O.P.No.547 of 2021 on the file of the Family Court, Salem and transfer the same to the Sub-Ordinate Court, Kallakurichi, Kallakurichi District.

2. The marriage between the petitioner and the respondent was solemnized on 19.10.2008 as per the Hindu Rites and Customs. From and out of the wedlock between the petitioner and the respondent one child was born, who is now a minor.

3. Learned counsel for the petitioner states that the petitioner / wife is unemployed, who is residing along with her parents with her minor child at Kallakurichi. While so, the petitioner may not be in a position to spend, travel and contest the case.

4. The principles regarding transfer petitions, more specifically in the matters of matrimonial cases, are well settled through the three decisions of the High Court of Madras, in the following cases:-

(i) The Hon'ble Division Bench of the High Court



their matrimonial grievances, were also taken note of by the Government. Therefore such a beneficial provision meant for the women of our Country should be given a meaningful interpretation by Courts.”

(ii) In yet another case in ***Tr.CMP.Nos.138 and 139 of 2006, dated 30.08.2006***, the High Court of Madras has considered the following judgments of Hon'ble Supreme Court of India:-

*“(1) In the case of **Mona Aresh Goel vs. Aresh Satya Goel [(2000) 9 SCC 255]**, when the wife pleaded that she was unable to bear the traveling expenses and even to travel alone and stay at Bombay, the Supreme Court ordered transfer of proceedings.*

*(2) In the case of **Geeta Heera vs. Harish Chander Heera [(2000) 10 SCC 304]**, the Hon'ble Supreme Court has held that where the petitioner's wife has pleaded lack of money, the same has to be considered.*

*(3) In the case of **Lalita A.Ranga vs. Ajay Champalal Ranga [(2000) 9 SCC 355]**, the wife has filed a petition to transfer the proceedings initiated by the husband for divorce, at Bombay. The place of residence of the wife was at Jaipur, Rajasthan. In that case, the petitioner is having a small child and that she*



pleaded difficulty in going all the way from Jaipur to Bombay to contest the proceedings from time to time. Considering the distance and the difficulties faced by the wife, the Supreme Court has allowed the transfer petition.

*(4) In a decision in **Archana Singh vs. Surendra Bahadur Singh [(2005) 12 SCC 395]**, the wife has sought for transfer of matrimonial proceedings and a divorce petition has been filed by the respondent's husband at Baikunthpur to be transferred to Allahabad, where the petitioner's wife was residing, on the ground that it would be difficult for her to undertake such long distance journey, particularly in circumstances, in which she finds that the proceedings under 5 Section 125 Cr.P.C. was already pending before the Family Court, Allahabad. Considering the difficulties faced by the wife and also the long distance journey, the Honourable Supreme Court was pleased to order transfer of the proceedings to Allahabad."*

(iii) In a decision made in **TR.CMP(MD)No.108 of 2010, dated 03.03.2011**, the Madurai Bench of Madras High Court, wherein in paragraph-18, it has been observed as below:-



“18. It is true that section 19 of the Hindu Marriage Act, has been amended by insertion of proviso of (iii)(a) to section 19. Of Course, this amended section 19(iii)(a) gives special preference to the wife to file a petition or defending the case of the husband before the Court within whose jurisdiction she resides. The intention of the Legislator is to safe-guard the interest and rights of the women, who are being subjected to harassment and cruelty. But this special preference conferred under section 19(iii)(a) of the Hindu Marriage Act shall not be used to wreck vengeance on the husband. There must be a justifiable cause to select the jurisdiction of the Court where she resides.”

5. Considering the facts and circumstances, the H.M.O.P.No.547 of 2021 pending on the file of the Family Court, Salem stands transferred to the Sub-Ordinate Court, Kallakurichi, Kallakurichi District.

6. The Family Court, Salem is directed to transmit the case papers within a period of four weeks from the date of receipt of a copy of this order.



7. Accordingly, the transfer petition stands allowed. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

22.12.2022

drm

Index : Yes / No

Speaking order / Non-speaking order

To

1. The Family Court, Salem.
2. The Sub-Ordinate Court, Kallakurichi
Kallakurichi District.



WEB COPY

Tr.C.M.P.No.251 of 2



S.M.SUBRAMANIAM, J.

(drm)

Tr.C.M.P.No.251 of 2022
and
C.M.P.No.5071 of 2022

22.12.2022