



TR.C.M.P(MD).No.64 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.64 of 2022

and

C.M.P(MD).No.1336 of 2022

Pandiselvi

... Petitioner

versus

Vijayakumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in H.M.O.P.No.133 of 2021 on the file of the Subordinate Court, Omalur and the transfer the same to the Subordinate Court, Srivilliputhur.

For Petitioner : Mr.S.Ramasamy

For Respondent : Mr.Vijayakumar
(Party-in-person)



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in H.M.O.P.No.133 of 2021 from the file of the Subordinate Court, Omalur, to the file of the Subordinate Court, Srivilliputhur.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 13.03.2019, as per the Hindu Rites and Customs. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.133 of 2021 before the Subordinate Court, Omalur, for divorce. Now, the petitioner is living along with her parents at Rajapalayam. Since the parents of the petitioner are not in a position to accompany her, she finds it difficult to travel from Rajapalayam to Omalur. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in



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H.M.O.P.No.133 of 2021 from the file of the Subordinate Court, Omalur, to the file of the Subordinate Court, Srivilliputhur.

3. The learned counsel appearing for the petitioner submits that the distance between Rajapalayam and Omalur is around 350 kms. He further submits that the petitioner is not having sufficient means to travel and she depends upon her parents to meet out her day-to-day expenses. Since the petitioner's parents are not in a position to accompany her, she finds it difficult to travel from Rajapalayam to Omalur for appearing before the Subordinate Court, Omalur, for each and every hearing.

4. Heard the respondent, who appeared as party-in-person.

5. The Hon'ble Apex Court in the case of ***Amitha Shah vs- Virendar Lal Shah***, reported ***(2003)10 SCC 609*** has held that *the convenience of the wife and more so of the child must be taken into*



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account while deciding the petition for transfer and in the case of Rajani ***Kishor Paradeshi Vs Kishor Babulal Paradeshi reported in (2005) 12 SCC 237***, the Hon'ble Apex Court has held that in such type of transfer petitions, the convenience of the wife is to be preferred over the convenience of the husband.

6. This Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration that the convenience of wife is to be taken into consideration at the time of considering transfer petitions as held by the Hon'ble Supreme Court in the judgments cited supra, is inclined to allow the present petition.

7. In the light of the above, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.133 of 2021 pending on the file of the Subordinate Court, Omalur, is withdrawn and ordered to be transferred to the file of the Subordinate Court,



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Srivilliputhur. The Subordinate Court, Omalur, is directed to transmit the entire case records to the Subordinate Court, Srivilliputhur, forthwith. The learned Subordinate Judge, Srivilliputhur, shall dispose of the case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

03.08.2022

Index : Yes / No
Internet: Yes / No
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To

1. The Subordinate Court,
Omalur.
2. The Subordinate Court,
Srivilliputhur.



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B.PUGALENDHI, J.

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