



TR.C.M.P(MD).No.74 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.74 of 2022

and

C.M.P(MD).No.1592 of 2022

N.Thamees Banu

... Petitioner

versus

S.N.Syed Mohammed Abuthahir
@ S.N.Syed Afzal

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in O.S.No.5 of 2021 on the file of the Family Court, Dindigul and transfer the same to the Family Court, Trichy.

For Petitioner : Mr.A.Haja Mohideen

For Respondent : Mr.C.M.Arumugam



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in O.S.No.5 of 2021 from the file of the Family Court, Dindigul, to the file of the Family Court, Trichy.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 17.03.2019, as per the Muslim Rites and Customs and out of the wedlock, they are blessed with a female child on 02.01.2020. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed O.S.No.5 of 2021 before the Family Court, Dindigul, for divorce. Now, the petitioner and her child are living along with her parents at Trichy. Since the petitioner alone has to take care of her child and there is no one to accompany her, she finds it difficult to travel from Trichy to Dindigul. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in



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O.S.No.5 of 2021 from the file of the Family Court, Dindigul to Family Court, Trichy.

3. The learned counsel appearing for the petitioner submits that the distance between Trichy and Dindigul is around 105 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 alone has to care of her child aged about 2 years and there is no one to accompany her, she finds it difficult to travel from Trichy to Dindigul for appearing before the Family Court, Dindigul, for each and every hearing.

4. Heard the learned counsel appearing for the respondent.

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 O.S.No.5 of 2021 pending on the file of the Family Court, Dindigul, is withdrawn and ordered to be transferred to the file of the Family Court, Trichy. The Family



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Court, Dindigul, is directed to transmit the entire case records to the Family Court, Trichy, forthwith. The learned Judge, Family Court, Trichy, 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 Family Court,
Dindigul,
2. The Family Court,
Trichy.



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B.PUGALENDHI, J.

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