



TR.C.M.P(MD).No.80 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.80 of 2022

C.M.P(MD).No.1747 of 2022

B.Nagapriya @ Mohanapriya

... Petitioner

versus

S.Boopathi

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in H.M.O.P.No.260 of 2021 on the file of the Family Court No.IV, Chennai and transfer the same to the Family Court, Tiruchirappalli and to conduct enquiry along with H.M.O.P.SR.No.10747 of 2021 and M.C.No.122 of 2021.

For Petitioner : M/s.T.Banumathi

For Respondent : Mr.N.Shanmuga Selvam

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.260 of 2021 pending on the



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file of the Family Court No.IV, Chennai, to the file of the Family Court, Tiruchirappalli, to be tried along with H.M.O.P.SR.No.10747 of 2021 and M.C.No.122 of 2021.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 26.04.2021, as per the Hindu Rites and Customs. Due to some difference of opinion, the petitioner filed a petition under Section 13(1) of Hindu Marriage Act, 1955, before the Family Court, Tiruchirappalli, seeking divorce, which is in SR stage as H.M.O.P.SR.No.10747 of 2021. She also filed a petition in M.C.No. 122 of 2021 under Section 125 Cr.P.C. seeking maintenance. In order to avoid to pay maintenance amount, the respondent filed a petition in H.M.O.P.No.260 of 2021 before the Family Court No.IV, Chennai, to declare the marriage held between them as null and void. Now, the petitioner is living along with her old-aged parents at Tiruchirappalli. Since she alone has to take care of her old-aged parents, she finds it



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difficult to travel from Trichy to Chennai. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.260 of 2021 pending on the file of the Family Court No.IV, Chennai, to the Family Court, Tiruchirappalli to be tried along with H.M.O.P.SR.No.10747 of 2021 and M.C.No.122 of 2021.

3. The learned counsel appearing for the petitioner submits that the distance between Trichy and Chennai is around 330 kms. He further submits that the petitioner is an unemployed person and she is not having sufficient means to maintain herself and she depends upon her parents. He further submits that the petitioner alone has to take care of her old-aged parents and there is no one to accompany her to travel from Trichy to Chennai. Therefore, she finds it difficult to travel and appear before the Family Court No.IV, Chennai, for each and every hearing.

4. The learned counsel appearing for the respondent objects for



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transfer of the proceedings in H.M.O.P.No.260 of 2021 from the file of the Family Court No.IV, Chennai to the Family Court, Tiruchirappalli.

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 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



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allow the present petition.

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7. In the light of the above, the Transfer Civil Miscellaneous Petition stands allowed. The proceedings in H.M.O.P.No.260 of 2021 pending on the file of the Family Court No.IV, Chennai is withdrawn and transferred to the Family Court, Tiruchirappalli to be tried along with H.M.O.P.SR.No.10747 of 2021 and M.C.No.122 of 2021. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Family Court No.IV,
Chennai.

2. The Family Court,
Tiruchirapalli.



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B.PUGALENDHI, J.

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