



Tr.C.M.P(MD)No.81 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.81 of 2022

and

C.M.P(MD) No.1749 of 2022

T.Saranya @ Pandeewari

... Petitioner

-Vs-

Karthikeyan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.612 of 2021 on the file of the Family Court, Salem and to transfer the same to the file of the Family Court, Dindigul for trial along with H.M.O.P.No.252 of 2019.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.C.R.Nirmal

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in H.M.O.P.No.612 of 2021 from the file of the Family Court, Salem to the Family Court, Dindigul to try along with H.M.O.P.No.252 of 2019.



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2.The learned counsel appearing for the petitioner submits that the petitioner is the wife and the respondent is the husband. The marriage between them was solemnized on 04.11.2018. Subsequently, due to some difference of opinion, they separated. The petitioner filed H.M.O.P.No.252 of 2019 before the Family Court, Dindigul for the relief of Restitution of Conjugal rights. The grievance of the petitioner is that after two years from the date of filing of the petition by the petitioner for the relief of Restitution of Conjugal rights, the respondent/husband has filed the petition in H.M.O.P.No.612 of 2021, before the Family Court, Salem, seeking divorce, only to harass the petitioner. Since the petitioner is the resident of Dindigul, she filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.612 of 2021 from the file of the Family Court, Salem to the Family Court, Dindigul to try along with H.M.O.P.No.252 of 2019.

3.The learned counsel appearing for the respondent submits that the respondent/husband met with an accident, due to



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which, his left thigh bone got fractured and hence he could not travel for a long distance and strongly objects for transfer of the proceedings in H.M.O.P.No.612 of 2021 from the file of the Family Court, Salem to the Family Court, Dindigul.

4.This Court considered the submissions made by either side counsel and also perused the materials placed on record.

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



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6.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, considering the fact that after filing of the petition by the petitioner/wife in H.M.O.P.No.252 of 2019 before the Family Court, Dindigul for the relief of Restitution of Conjugal rights, the respondent/husband filed the petition in H.M.O.P.No.612 of 2021, before the Family Court, Salem, seeking divorce 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, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.612 of 2021, on the file of the Family Court, Salem is withdrawn and ordered to be transferred to the file of the Family Court, Dindigul. The learned Judge, Family Court, Salem is directed to transmit the entire case records to the Family Court, Dindigul



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forthwith and the learned Judge, Family Court, Dindigul, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2022

Index : Yes/No
Internet : Yes/No
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To

- 1.The Family Court, Salem.
- 2.The Family Court, Dindigul.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

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Tr.C.M.P(MD)No.81 of 2022
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