



TR.C.M.P(MD).No.113 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.113 of 2022

and

C.M.P(MD).No.2293 of 2022

A.Naveen Banu

... Petitioner

versus

Muhammed Shahil

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in O.S.No.3 of 2021 on the file of the Family Court, Villupuram, Villupuram District and transfer the same to the file of the District Court or Family Court at Tirunelveli.

For Petitioner : Mr.G.Anto Prince

For Respondent : Mr.M.Saravana Kumar



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in O.S.No.3 of 2021 from the file of the Family Court, Villupuram, to the file of the District Court or Family Court at Tirunelveli.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 11.07.2020, as per the Muslim Rites and Customs. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed O.S.No.3 of 2021 before the Family Court, Villupuram, for dissolution of marriage. Now, the petitioner is living along with her old-aged parents at Tirunelveli. Since the petitioner alone has to take care of her old-aged parents, she finds it difficult to travel from Tirunelveli to Villupuram. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in O.S.No.3



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of 2021 from the file of the Family Court, Villupuram to District Court or Family Court at Tirunelveli.

3.The learned counsel appearing for the petitioner submits that the distance between Tirunelveli and Villupuram is around 457 kms. He further submits that the petitioner is not having sufficient means to travel and she alone has to take care of her old-aged parents. Since there is no one to accompany her, she finds it difficult to travel from Tirunelveli to Villupuram for appearing before the Family Court, Villupuram, 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 account while deciding the petition for transfer* and in the case of



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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.3 of 2021 pending on the file of the Family Court, Villupuram, is withdrawn and ordered to be transferred to the file of the Family Court, Tirunelveli. The Family Court, Villupuram, is directed to transmit the entire case



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records to the Family Court, Tirunelveli, forthwith. The learned Judge, Family Court, Tirunelveli, 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,
Villupuram.
2. The Family Court,
Tirunelveli.



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B.PUGALENDHI, J.

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