



TR.C.M.P(MD).No.122 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.122 of 2022

and

C.M.P(MD).No.2433 of 2022

Meena

... Petitioner

versus

Sundar Raj

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw and transfer the case in H.M.O.P.No.321 of 2022 from the file of the Family Court, Cuddalore to the file of the Family Court, Tiruchirappalli.

For Petitioner : Mr.J.K.Jeyaselan

For Respondent : Mr.K.A.Thirumalaiappan



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in H.M.O.P.No.321 of 2022 from the file of the Family Court, Cuddalore to the file of the Family Court, Tiruchirappalli.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between the petitioner and the respondent was solemnized on 22.08.2005, as per Hindu Rites and Customs and out of the wedlock, they are blessed with a female child. Due to some misunderstanding, the respondent filed H.M.O.P.No.81 of 2013 before the Principal Subordinate Court, Cuddalore, for divorce. The petitioner has also filed H.M.O.P.No.323 of 2013 and M.C.No.171 of 2013 seeking restitution of conjugal rights and interim maintenance. In the meantime, H.M.O.P.No.81 of 2013 was transferred to Trichy and renumbered as H.M.O.P.No.95 of 2016. Pending litigation, the



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petitioner and the respondent have entered into compromises and based on the said compromise memo, all the cases were closed. Thereafter, the petitioner lived happily with her husband. However, she was subjected to cruelty and harassment by demanding dowry, which was constrained her to file a complaint before the Additional Mahila Court, Tiruchirappalli. The said complaint was numbered as D.V.C.No.66 of 2021. Thereafter, the respondent filed H.M.O.P.No.321 of 2021 before the Family Court, Cuddalore, seeking divorce. Now, the petitioner and her daughter are living along with her old-aged mother at Tiruchirappalli. Since the petitioner alone has to take care of her daughter and her old-aged mother, she finds it difficult to travel from Tiruchirappalli to Cuddalore. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.321 of 2021 from the file of the Family Court, Cuddalore to the file of the Family Court, Tiruchirappalli.



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3. The learned counsel appearing for the petitioner submits that the distance between Tiruchirappalli and Cuddalore is around 190 kms. He further submits that the petitioner is not having sufficient means to travel and the respondent has also not paid any maintenance amount to the petitioner. Since she alone has to take care of her daughter and her old-aged mother and there is no one to accompany her, she finds it difficult to travel from Tiruchirappalli and Cuddalore for appearing before the Family Court, Cuddalore, 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 Rajani ***Kishor Paradeshi Vs Kishor Babulal Paradeshi*** reported in (2005) 12 SCC 237, the Hon'ble Apex Court has held that in such type



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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.321 of 2021 pending on the file of the Family Court, Cuddalore, is withdrawn and ordered to be transferred to the file of the Family Court, Tiruchirappalli. The Family Court, Cuddalore, is directed to transmit the entire case records to the Family Court, Tiruchirappalli, forthwith. The learned Judge, Family Court, Tiruchirappalli, shall dispose of the



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case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

19.09.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Family Court,
Cuddalore.

2. The Family Court,
Tiruchirappalli.



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B.PUGALENDHI, J.

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