

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.132 of 2022

and

C.M.P(MD) No.2543 of 2022

Anu Priya

... Petitioner

-Vs-

K.Prakash

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.756 of 2021, on the file of the Additional Family Court, Coimbatore and transfer the same to the Principal Sub Court, Kumbakonam.

For Petitioner : Mr.G.Gomathi Sankar

For Respondent : Mr.G.Balaji

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.756 of 2021 from the file of the Additional Family Court, Coimbatore to the Principal Sub Court, Kumbakonam.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 20.01.2020, as per Hindu rites and customs. Subsequently, due to some difference of opinion, they separated. The husband filed H.M.O.P.No.756 of 2021 before the Additional Family Court, Coimbatore, for divorce. Since the petitioner/wife is a resident of Kumbakonam, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.756 of 2021 from the file of the Additional Family Court, Coimbatore to the Principal Sub Court, Kumbakonam.

3.The learned counsel appearing for the petitioner submits that the distance between Coimbatore and Kumbakonam is around 300kms and the petitioner is not having any means to travel such a long distance and there is no one to accompany her.

4.The learned counsel appearing for the respondent objects for transfer of the proceedings from the Additional Family Court,

Coimbatore to the Principal Sub Court, Kumbakonam.

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.

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, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.756 of 2021, on the file of Additional Family court, Coimbatore is withdrawn and ordered to be transferred to the Principal Sub Court, Kumbakonam. The learned Judge, Additional Family Court, Coimbatore is directed to transmit the entire case records to the Principal Sub Court, Kumbakonam forthwith and the learned Principal Subordinate Judge, Kumbakonam, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

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To

- 1.The Additional Family Court, Coimbatore.
- 2.The Principal Sub Court, Kumbakonam.
- 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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Order made in
Tr.C.M.P(MD)No.132 of 2022

06.09.2022