



TR.C.M.P(MD).No.144 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.144 of 2022
C.M.P(MD).Nos.2754 and 2755 of 2022

S.Jayapratha

... Petitioner

versus

Muthu @ Muthukaman

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in H.M.O.P.No.163 of 2021 on the file of the Family Court, Thanjavur and transfer the same to the Sub Court, Usilampatti.

For Petitioner : Mr.K.R.Laxman

For Respondent : Mr.K.K.Ramakrishnan



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.163 of 2021 from the file of the Family Court, Thanjavur to the Sub Court, Usilampatti.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 10.06.2012, as per the Hindu Rites and Customs. After few days of the marriage, the respondent and his family members harassed the petitioner and demanded more dowry from her. Hence, she has lodged a criminal complaint before the All Women Police Station, Usilmapatti, Madurai. In order to escape from the criminal proceedings, he has filed H.M.O.P.No.163 of 2021 before the Family Court, Thanjavur, seeking restitution of conjugal rights. Since the petitioner/wife is a resident of Usilampatti, Madurai, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.163 of 2021 from the file of the Family Court, Thanjavur to the Sub Court, Usilampatti.



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3.The learned counsel appearing for the petitioner submits that the distance between Usilampatti and Thanjavur is around 200 kms and it is very difficult for the petitioner to travel such a long distance for appearing before the Family Court, Thanjavur, for each and every hearing.

4.The learned counsel appearing for the respondent objects for transferring the proceedings from the file of the Family Court, Thanjavur to the Sub Court, Usilampatti, since there is a life threat for the respondent at Usilampatti.

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 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 inconvenience of the wife is to be preferred over the convenience of the



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husband.

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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. Considering the submissions made by either side counsel, this Court is inclined to transfer the proceedings in H.M.O.P.No.163 of 2021 from the file of the Family Court, Thanjavur to the Family Court, Madurai, which is a neutral venue. Accordingly, this transfer Civil Miscellaneous Petition is disposed of with a direction that the proceedings in H.M.O.P.No 163 of 2021 on the file of the Family Court, Thanjavur is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The learned Judge, Family Court, Thanjavur, is directed to transmit the entire case records to the Family Court, Madurai forthwith and the learned Judge, Family Court, Madurai, who in turn shall dispose of the same as



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expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

06.07.2022

ssb

Index : Yes / No

Internet: Yes / No

To

- 1.Family Court, Thanjavur
2. Family Court, Madurai.



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B.PUGALENDHI, J.

ssb

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