



TR.C.M.P(MD).No.153 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.153 of 2022
C.M.P(MD).No.2928 of 2022

Divya
W/o.Sarathkumar

... Petitioner

versus

Sarathkumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in H.M.O.P.No.191 of 2021 on the file of the Sub Court, Uthamapalayam and to transfer the same on the file of the Family Court, Madurai.

For Petitioner : Mr.G.Mohan Kumar
For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.191 of 2021 from the file of the Sub Court, Uthamapalayam to the Family Court, Madurai.



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2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 13.03.2019, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent has filed H.M.O.P.No.191 of 2021 before the Sub Court, Uthamapalayam, Theni District, seeking divorce. Since the petitioner/wife is a resident of Madurai District, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.191 of 2021 from the file of the Sub Court, Uthamapalayam to the Family Court, Madurai.

3.The learned counsel appearing for the petitioner submits that the distance between Madurai and Theni is around 70 kms and the petitioner is not having any means to travel such a long distance for appearing before the Sub Court, Uthamapalayam.

4.Heard the learned counsel appearing for the petitioner. Though notice served on the respondent and also name printed in the cause list, there was no representation for the respondent.



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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 with the following directions:



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- i. The proceedings in H.M.O.P.No.191 of 2021 on the file of the Sub Court, Uthamapalayam, is withdrawn and ordered to be transferred to the file of the Family Court, Madurai.
- ii. The learned Subordinate Judge, Uthamapalayam 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 expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2022

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Index : Yes / No

Internet: Yes / No

To

1.Sub Court, Uthamapalayam,
Theni District.

2. Family Court,
Madurai.



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B.PUGALENDHI, J.

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