



TR.C.M.P(MD).No.170 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.170 of 2022

and

C.M.P(MD).No.3070 of 2022

R.Pandi Meena

... Petitioner

versus

S.Dhanasekara Pandian

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in H.M.O.P.No.219 of 2021 pending on the file of the Sub Court, Uthamapalayam and transfer the same to the file of the Sub Court, Ponneri, Chennai.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : No appearance



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in H.M.O.P.No.219 of 2021 from the file of the Sub Court, Uthamapalayam, to the file of the Sub Court, Ponneri, Chennai.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 29.05.2015, as per the Hindu Rites and Customs and out of the wedlock, they are blessed with a female child. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.219 of 2021 before the Sub Court, Uthamapalayam, for divorce. Now, the petitioner and her child are living along with her old-aged parents at Sengundram, Chennai. Since the petitioner's parents are not in a position to accompany her, she finds it difficult to travel from Chennai to Uthamapalayam. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.219 of 2021 from the file of the Sub Court,



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Uthamapalayam, to the file of the Sub Court, Ponneri, Chennai.

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3. The learned counsel appearing for the petitioner submits that the distance between Chennai and Uthamapalayam is around 536 kms. He further submits that the petitioner is not having sufficient means to travel and she depends upon her parents to meet out her day-to-day expenses. Since the petitioner alone has to care of her child and old-aged parents and there is no one to accompany her, she finds it difficult to travel from Chennai to Uthamapalayam for appearing before the Sub Court, Uthamapalayam, for each and every hearing.

4. When the matter was taken up for hearing on 14.07.2022, there was no representation for the respondent. Even today, there is no representation 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*



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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 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.219 of 2021 pending on the file of the Sub Court, Uthamapalayam, is withdrawn



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and ordered to be transferred to the file of the Sub Court, Ponneri, Chennai. The Sub Court, Uthamapalayam, is directed to transmit the entire case records to the Sub Court, Ponneri, Chennai, forthwith. The learned Judge, Sub Court, Ponneri, Chennai, 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 Sub Court,
Uthamapalayam.
2. The Sub Court,
Ponneri,
Chennai



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B.PUGALENDHI, J.

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