



Tr.C.M.P(MD)No.161 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.161 of 2022

and

C.M.P(MD) No.3016 of 2022

Rekha

... Petitioner

-Vs-

Vijay Anand

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.149 of 2019 on the file of the learned Subordinate Court, Sivakasi, Virudhunagar District filed by the respondent herein and the same may be transferred to the Court of the learned Family Court, Perambalur.

For Petitioner : Mr.K.M.Karunakaran

For Respondent : Mr.M.Solaisamy



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.149 of 2019 from the file of the Subordinate Court, Sivakasi, Virudhunagar District to the Family Court, Perambalur.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 20.08.2017, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.149 of 2019, seeking divorce, before the Subordinate Court, Sivakasi, Virudhunagar District. Since the petitioner/wife is a resident of perambalur, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.149 of 2019 from the file of the Subordinate Court, Sivakasi, Virudhunagar District, to the Family Court, Perambalur.



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3.The learned counsel appearing for the petitioner submits that the distance between Perambalur and Virudhunagar is around 540 kms and the petitioner is finding it very difficult to travel such a long distance with her three years girl baby to appear before the Subordinate Court, Sivakasi, Virudhunagar District and also there is no one to accompany her.

4. Heard Mr.M.Solaisamy, learned counsel 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 of transfer petitions, the convenience of the wife is to be preferred over the convenience of the 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.Though the relief is sought for in this petition to transfer H.M.O.P.No.149 of 2019 from the file of the Subordinate Court, Sivakasi, Virudhunagar District to the file of Family Court, Perambalur, this Court is inclined to transfer H.M.O.P.No.149 of 2019 from the file of the Subordinate Court, Sivakasi, Virudhunagar District, to the file of the Sub Court, Perambalur.

8.Accordingly, this transfer civil miscellaneous petition stands allowed with the following directions:

“(i)The proceedings in H.M.O.P.No.149 of 2019 on the file of the Subordinate Court, Sivakasi, Virudhunaar District, is withdrawn



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*and ordered to be transferred to the file of the
Sub Court, Perambalur;*

(ii)The learned Subordinate Judge,
Sivakasi, Virudhunagar District, is directed to
transmit the entire case records to the
Subordinate Court, Perambalur, forthwith and
the learned Judge, Subordinate Court Court,
Perambalur, who in turn shall dispose of the
same as expeditiously as possible. “

No costs. Consequently, connected miscellaneous petition is closed.

02.12.2022

Index : Yes/No
Internet : Yes/No
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To



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- 1.Subordinate Court, Sivakasi, Virudhunagar District.
2. Subordinate Court Court, Perambalur,
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

B.PUGALENDHI, J.



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Order made in
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