



TR.C.M.P(MD).No.173 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.173 of 2020

and

C.M.P(MD).No.3252 of 2020

T.S.Dineshraj @ T.S.Solomon
Dineshraj @ T.S.Solomon

... Petitioner

versus

Vinothini

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, seeking to withdraw the case in H.M.O.P.No.91 of 2019 pending on the file of learned Sub Judge, Virudhunagar and I.D.O.P.No.19 of 2020 pending on the file of the learned Principal District Judge, Pudukottai and transfer both the cases to the learned Principal District Judge, Madurai.

For Petitioner : Mr.S.K.Balasundram

For Respondent : Mr.A.Karthick



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking to withdraw the case in H.M.O.P.No.91 of 2019 from the file of the learned Sub Judge, Virudhunagar to the file of the learned Principal District Judge, Madurai, to be tried along with IDOP No.19 of 2020.

2. The learned counsel appearing for the petitioner submits that the petitioner herein is the husband and the respondent herein is the wife. Their marriage was solemnized on 25.05.2018 as per Christian rites and customs and out of the wedlock, a male child was born on 17.06.2019. Due to some misunderstanding, they are living separately. Thereafter, the respondent/wife filed a divorce petition in H.M.O.P.No. 91 of 2019 before the learned Sub Judge, Virudhunagar. Subsequently, the petitioner has also filed a petition in I.D.O.P.No.19 of 2020 before the learned Principal District Judge, Pudukkottai, for restitution of conjugal rights. Now, the petitioner is working as Vaccine Cold Chain Manager in the Department of Public Health and Preventive Medicine



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at Pudukkottai. Since he is the only Officer in the entire Pudukkottai District Health Unit and he has to inspect the quality of the vaccine in every Primary Health Centres in and around the Pudukkottai District Health Unit, it is very difficult for him to take leave and attend the Court at Pudukkottai for each and every hearing. Therefore, he seeks transfer of H.M.O.P.No.91 of 2019 from the file of the learned Sub Judge, Virudhunagar, to the file of the learned Principal District Judge, Madurai, to be tried along with IDOP No.19 of 2020.

3. The learned counsel appearing for the respondent submits that the petitioner and her 3-year-old child are now living along with her aged parents at Virudhunagar. Since she is not having sufficient means, she depends upon her parents to meet out her day-to-day expenses. Further, she alone has to take care of her 3-year-old child and her aged parents. If the divorce petition filed by the wife is transferred to Madurai, it would be difficult for her to travel from Virudhunagar to Madurai as there is no one to accompany her.



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Therefore, he seeks for dismissal of the transfer petition.

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4. 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.

6. In view of the decision laid down by the Hon'ble Apex Court that in transfer petitions, the convenience of the wife is to be preferred over the convenience of the husband and also considering the reasons stated by the respondent/wife that she is having 3-year-old child and she alone has to take care of her child and her aged parents and there is no one to support and accompany her, this Court is not inclined to



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accept the reasons stated by the petitioner/husband for transferring the divorce petition.

7. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.10.2022

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Index : Yes / No.

Internet : Yes / No.

To

1. The learned Sub Judge,
Virudhunagar.



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B.PUGALENDHI, J.

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