



TR.C.M.P(MD).No.176 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.176 of 2022
and
C.M.P(MD).No.3151 of 2022

P.K.Parthasarathy

... Petitioner

versus

S.Prabha

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw G.W.O.P.No.121 of 2021 on the file of the Principal District Judge, Dindigul and transfer the same to the file of the Family Court, Trichy to be tied along with H.M.O.P.No.250 of 2020 and H.M.O.P.No.22 of 2021.

For Petitioner : Mr.T.Lenin Kumar



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in G.W.O.P.No.121 of 2021 from the file of the Principal District Judge, Dindigul to the Family Court, Trichy and to be tied along with H.M.O.P.No.250 of 2020 and H.M.O.P.No.22 of 2021

2. The petitioner is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 28.01.2007, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the petitioner has filed H.M.O.P.No.250 of 2022 before the Family Court, Dindigul, seeking divorce. Thereafter, the respondent has also filed H.M.O.P.No.22 of 2021 before the Principal Sub Court, Pudukottai, seeking for the relief of restitution of conjugal rights and also she filed an application in G.W.O.P.No.121 of 2021 on the file of the Principal District Judge, Dindigul seeking to appoint her as legal guarding of the minor children. Since the petitioner/husband is a resident of Dindigul, he filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in G.W.O.P.No.121 of 2021 from the file of the Principal



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District Judge, Dindigul to the Family Court, Trichy and shall try it along with H.M.O.P.No.250 of 2020 and H.M.O.P.No.22 of 2021 .

3.The learned counsel appearing for the petitioner submits that the distance between Dindigul and Trichy is around 100 kms and the petitioner is not having any means to travel such a long distance for appearing before the Principal District Judge.

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.

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



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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:

- i. The proceedings in G.W.O.P.No.121 of 2021 on the file of the Principal District Judge, Dindigul is withdrawn and ordered to be transferred to the file of the Family Court, Trichy.
- ii. The learned Principal District Judge, Dindigul is directed to transmit the entire case records to the Family Court, Trichy forthwith and the learned Judge, Family Court, Trichy, who in turn, on receipt of the



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case, shall try it along with H.M.O.P.No.250 of 2020 and H.M.O.P.No.22 of 2021 and shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2022

tta

Index : Yes / No

Internet: Yes / No

To

1.Principal District Judge,
Dindigul.

2.Family Court,
Trichy.



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B.PUGALENDHI, J.

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