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TR.C.M.P(MD)No.179 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2022

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**TR.C.M.P (MD)No.179 of 2022**

**and**

**C.M.P (MD)No.3184 of 2022**

Pommeswari ... Petitioner

Vs

Jothimanikantan ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw and transfer the proceedings in HMOP.No.4 of 2019 on the file of the Principal Court, Dindigul to the file of the Sub Court, Uthamapalayam to try along with OP.No.143 of 2019 pending on the file of the Sub Court, Uthamapalayam.

For Petitioner : Mr.G.Vanjinathan

For Respondent : Mr.R.Kumar

**ORDER**

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.4 of 2019 from the Principal Sub Court, Dindigul to the Sub Court, Uthamapalayam.



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2.The marriage between the petitioner and the respondent was solemnized on 09.11.2017.

There are differences of opinion between them. Now the husband has filed a petition in HMOP.No.4 of 2009 seeking divorce before the Principal Sub Court, Dindigul. Since the petitioner / wife is a resident of Theni district, she has filed this present Transfer Civil Miscellaneous Petition to transfer the above proceedings to Sub Court, Uthamapalayam and to try it along with OP.No.143 of 2019, which is filed by her for restitution of conjugal rights, before the Sub Court, Uthamapalayam on the ground that she is depending upon her aged parents, she is having a female child of tender age, no one is there to accompany her and therefore she finds it difficult to appear before Court at Dindigul by travelling such a long distance.

3.The learned Counsel for the respondent opposed this 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.

5.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.

6.In the light of the above, this transfer civil miscellaneous petition stands allowed with the following directions:

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(i)The case in HMOP No.4 of 2019 on the file of the Principal Sub Court, Dindigul is transferred to the Sub Court, Uthamapalayam;

(ii)The learned Principal Sub Judge, Dindigul is directed to send the above case records within a period of fifteen days from the date of receipt of a copy of this order to the learned Sub Judge, Uthamapalayam, who in turn, on receipt of the case, shall try it along with OP.No.143 of 2019 and dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition stands closed.

**28.10.2022**

Index: Yes/No

To

- 1.The Principal Sub Judge,  
Dindigul.
- 2.The Sub Judge,  
Uthamapalayam.

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B. PUGALENDHI , J.

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