



Tr.C.M.P(MD)No.186 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.186 of 2022

and

C.M.P(MD) No.3343 of 2022

R.Kingston Singh

... Petitioner

-Vs-

A.Anshma Mary

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.261 of 2020 on the file of the Family Court, Kanyakumari District at Nagercoil and transfer the same to the Family Court, Tirunelveli.

For Petitioner : Mr.S.T.Sasidharan Tamilkani

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in I.D.O.P.No.261 of 2020 from the file of the Family Court, Kanyakumari to the Family Court, Tirunelveli.

2.The learned counsel appearing for the petitioner submits that the petitioner is the husband and the respondent is the wife. The



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marriage between the petitioner and the respondent was solemnized on 11.09.2019. Subsequently, due to some difference of opinion, the wife filed I.D.O.P.No.497 of 2020 before the Family Court, Kanyakumari District at Nagercoil for divorce. The petitioner filed I.D.O.P.No.261 of 2020 for the relief of Restitution of conjugal rights before the Family Court, Kanyakumari District. According to the petitioner, he apprehends threat at the hands of respondent's father at Kanyakumari and therefore he is afraid of appearing before the Family Court, Kanyakumari District at Nagercoil. Hence, the petitioner has filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in I.D.O.P.No.261 of 2020 from the file of the Family Court, Kanyakumari to the Family Court, Tirunelveli.

3.This Court considered the submissions of the learned counsel for the petitioner and also perused the materials placed on record. Since no adverse order is going to be passed as against the respondent, notice to the respondent is dispensed with.



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4. 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 convenience of the wife is to be preferred over the convenience of the husband. If the petitioner is having any apprehension at the hands of the respondent's father, it is always open to him to lodge a criminal complaint as against him. It is not a valid ground for transfer of the proceedings from one Court to another.

5. In view of the above, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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To

- 1.The Family Court, Kanyakumari District at Nagercoil.
- 2.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

vrn

Order made in
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