



TR.C.M.P(MD).No.216 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.216 of 2022
and C.M.P(MD).Nos.3861 and 3862 of 2022

Kavitha

... Petitioner/Respondent

versus

Thinakar Baby

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in O.P.No.3 of 2022 on the file of the Family Court, Theni District and transfer to the Family Court, Dindigul District.

For Petitioner : Mr.G.Mutharasu
For Respondent : Mr.T.LajapathiRoy

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in O.P.No.3 of 2022 from the file of the Family Court, Theni District to the Family Court, Dindigul.



TR.C.M.P(MD).No.216 of 2022

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 02.09.2011, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent filed O.P.No.3 of 2022 before the Family Court, Theni, seeking to dissolve the marriage. Since the petitioner/wife is living along with her parents at Dindigul, she finds it difficult to travel from Theni to Dindigul. Therefore, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in O.P.No.3 of 2022 from the file of the Family Court, Theni to the Family Court, Dindigul.

3.The learned counsel appearing for the petitioner submits that the distance between Dindigul and Theni is around 75 kms and it is very difficult for the petitioner to travel such a long distance for appearing before the Family Court, Theni, for each and every hearing.

4.Heard the learned counsel appearing for the respondent.



TR.C.M.P(MD).No.216 of 2022

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.

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 O.P.No.3 of 2022 on the file of the Family Court, Theni, is withdrawn and



WEB COPY



TR.C.M.P(MD).No.216 of 2022

ordered to be transferred to the file of the Family Court, Dindigul.

(ii)The learned Judge, Family Court, Theni, is directed to transmit the entire case records to the Family Court, Dindigul, forthwith and the learned Judge, Family Court, Dindigul, who in turn shall dispose of the same as expeditiously as possible. “

No costs. Consequently, connected miscellaneous petitions are closed.

18.11.2022

Index : Yes / No

Internet: Yes / No

Rmk

To

1.The Judge of Family Court, Dindigul.

2.The Judge of Family Court, Theni.



WEB COPY



TR.C.M.P(MD).No.216 of 2022

B.PUGALENDHI, J.

Rmk

TR.C.M.P(MD).No.216 of 2022

18.11.2022