



TR.C.M.P(MD).No.202 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.202 of 2022

and

C.M.P(MD).No.3637 of 2022

Muniyammal @ Bhuvaneswari

... Petitioner

versus

Rajmohan

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of C.P.C to withdraw the case in H.M.O.P.No.269 of 2021 on the file of the Family Court, Mannarkudi and transfer the same to the Family Court, Thanjavur.

For Petitioner : Mr.M.Karunanithi

For Respondent : No appearance



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.269 of 2021 from the file of the Family Court, Mannarkudi to the file of Family Court, Thanjavur.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 12.02.2014, as per the Hindu Rites and Customs and out of the wedlock, they were blessed with two children. Since the respondent and his parents harassed the petitioner by demanding more dowry, she left the matrimonial home and now, she and her children are living along with her parents at Thanjavur. Subsequently, the respondent filed H.M.O.P.No.269 of 2021 before the Family Court, Mannarkudi, seeking divorce. Since the petitioner alone has to take care of her two children and old-aged parents, she finds it difficult to travel from Thanjavur to Mannarkudi. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the proceedings in



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H.M.O.P.No.269 of 2021 from the file of the Family Court, Mannarkudi, to the file of Family Court, Thanjavur.

3. The learned counsel appearing for the petitioner submits that the distance between Thanjavur and Mannarkudi is around 40 kms. He further submits that the petitioner is an unemployed person and she is not having sufficient means to maintain herself and her children and her parents alone are maintaining them. He further submits that the petitioner alone has to take care of her children and old-aged parents and there is no one to accompany her to travel from Thanjavur to Mannarkudi. Therefore, she finds it difficult to travel and appear before the Family Court, Mannarkudi, for each and every hearing.

4. Though notice was served on the respondent and his name has been printed in the cause list, there is no representation on behalf of him either in person or through counsel.



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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.



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7. In the light of the above, the Transfer Civil Miscellaneous Petition stands allowed. The proceedings in H.M.O.P.No.269 of 2021, pending on the file of the Family Court, Mannarkudi, is withdrawn and ordered to be transferred to the file of the Family Court, Thanjavur. The Family Court, Mannarkudi, is directed to transmit the entire case records to the Family Court, Thanjavur, forthwith. The learned Judge, Family Court, Thanjavur, shall dispose of the same as expeditiously as possible. 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,
Mannarkudi.

2. The Family Court,
Thanjavur

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B.PUGALENDHI, J.

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