



TR.C.M.P(MD).No.188 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.188 of 2022

and

C.M.P(MD).No.3370 of 2022

R.Shanthini

... Petitioner

versus

N.Sivakumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in H.M.O.P.No.290 of 2021 on the file of the Sub Court, Tambaram and transfer the same to the Sub Court, Thuraiyur.

For Petitioner : Mr.C.Suresh Kannan

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.290 of 2021 from the file of the Sub Court, Tambaram, to the file of the Sub Court, Thuraiyur.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 20.01.2016, as per the Hindu Rites and Customs and out of the wedlock, they were blessed with a male child on 04.09.2017. Due to some difference of opinion, they are now living separately. Thereafter, the respondent has filed H.M.O.P.No.290 of 2021 before the Sub Court, Tambaram, seeking divorce. Now, the petitioner and her child are living along with her old-aged parents at Thuraiyur. Since she alone has to take care of her child and old-aged parents, she finds it difficult to travel from Thuraiyur to Tambaram. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.290 of 2021 from the file of the Sub Court, Tambaram to



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the file of the Sub Court, Thuraiyur.

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3.The learned counsel appearing for the petitioner submits that the distance between Thuraiyur and Tambaram is around 281 kms. He further submits that the petitioner is an unemployed person and she is not having sufficient means to maintain herself and her child and her parents alone are maintaining them. He further submits that the petitioner alone has to take care of her child and old-aged parents and there is no one to accompany her to travel from Thuraiyur to Tamabaram. Therefore, she finds it difficult to travel and appear before the Sub Court, Tambaram, 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.

5.The Hon'ble Apex Court in the case of *Amitha Shah vs-*



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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, the Transfer Civil Miscellaneous Petition stands allowed. The proceedings in H.M.O.P.No.290 of 2021



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pending on the file of the Sub Court, Tambaram, is withdrawn and ordered to be transferred to the file of the Sub Court, Thuraiyur. The Sub Court, Tambaram, is directed to transmit the entire case records to the Sub Court, Thuraiyur forthwith. The learned Judge, Sub Court, Thuraiyur shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2022

Index : Yes / No
Internet: Yes / No
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To

- 1 The Sub Court,
Tambaram.
2. The Sub Court,
Thuraiyur.



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B.PUGALENDHI, J.

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