



TR.C.M.P(MD).No.195 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.195 of 2022
and C.M.P(MD).No.3516 of 2022

M.Saranya

... Petitioner

versus

A.Sethuramalingam

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in H.M.O.P.No.137 of 2020 on the file of the Family Court, Tirunelveli and transfer the same to the Family Court, Thoothukudi.

For Petitioner : Mr.S.Rajeshkanna

For Respondent : Mr.Siva Surya Nanayanan



TR.C.M.P(MD).No.195 of 2022

ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.137 of 2020 from the file of the Family Court, Tirunelveli to the file of the Family Court, Thoothukudi.

2. The petitioner and the respondent are the husband and wife. The marriage between the petitioner and the respondent was solemnized on 31.08.2017, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent has filed H.M.O.P.No.137 of 2020 before the Family Court, Tirunelveli seeking divorce. Since the petitioner/wife is a resident of Madathur, Koram Pallam, Thoothukudi District, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.137 of 2020 from the file of the Family Court, Tirunelveli to the Family Court, Thoothukudi.

3.The learned counsel appearing for the petitioner submits that the distance between Madathur and Tirunelveli is around 65 kms and it is very difficult for the petitioner to travel such a long distance for appearing before the Family Court, Tirunelveli, for each and every hearing.



TR.C.M.P(MD).No.195 of 2022

4.The learned Counsel for the respondent has raised his objection to the relief sought for by the petitioner.

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.



TR.C.M.P(MD).No.195 of 2022

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

(i) The proceedings in H.M.O.P.No.137 of 2020 on the file of the Family Court, Tirunelveli is withdrawn and ordered to be transferred to the file of the Family Court, Thoothukudi.

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

No costs. Consequently, connected miscellaneous petition is closed.

27.07.2022

Rmk/dsk

Index : Yes / No

Internet: Yes / No

To

1. The Judge, Family Court, Tirunelveli.

2. The Judge, Family Court, Thoothukudi.



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TR.C.M.P(MD).No.195 of 2022



WEB COPY



TR.C.M.P(MD).No.195 of 2022

B.PUGALENDHI, J.

Rmk/dsk

TR.C.M.P(MD).No.195 of 2022

27.07.2022