



TR.C.M.P(MD)No.198 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD)No.198 of 2022

and

C.M.P(MD)No.3572 of 2022

S.Divya Joyce

... Petitioner

Vs

X.Rakesh sebastin

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the transfer IDOP No.2 of 2022 from the Additional District Court, Paramakudi to the file of the Family Court, Chennai.

For Petitioner : Ms.P.Malini

For Respondent : Mr.C.Jeganathan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to transfer the proceedings in IDOP.No.2 of 2022 from the file of the Additional District, Paramakudi to the file of the Family Court, Chennai.



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2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 14.08.2021, as per the Christian Rites and Customs. There are differences of opinion between the couple. Now the husband filed IDOP No.2 of 2022 before the Additional District Court, Paramakudi for restitution of conjugal rights. Since the petitioner / wife is a resident of Chennai, she has filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in IDOP No.2 of 2022 from the file of the Additional District Court, Paramakudi to the file of the Family Court, Chennai.

3.The learned counsel appearing for the petitioner submits that if the husband is ready for reunion he can very well approach the petitioner and take earnest steps for the same. Instead of doing so, he has filed the petition for restitution of conjugal rights before a Court at Paramakudi, which is far away from Chennai and it is extremely difficult for the petitioner to



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travel such a long distance for appearing before the Court for each hearing. Moreover, she is a Doctor by profession and also having a child of tender age.

4.The learned Counsel for the respondent submits that the husband is willing for reunion and whether to reside in Madurai or Chennai is the issue between them. The respondent husband is also a Doctor by profession and he is doing PG degree at Madurai and therefore, he insisted for the wife to reside at Madurai. However, the wife is not agreeing for the same. Therefore the issue arises.

5.Though the respondent is willing for reunion, the petitioner wife is having a child of tender age and she is also a Doctor by profession and she is also depending upon her aged parents. Therefore, this Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration that it is well settled law that convenience of wife is to be taken into



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consideration at the time of considering transfer applications as held by the Hon'ble Supreme Court in the judgment reported in **2008 (9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, is inclined to allow the present petition.

6. In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in IDOP No.2 of 2022 on the file of the Additional District Court, Paramakudi is withdrawn and ordered to be transferred to the file of the Family Court, Chennai. The learned Additional District Judge, Additional District Court, Paramakudi is directed to transmit the entire case bundle forthwith to the learned Judge, Family Court, Chennai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

06.07.2022

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To

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1. The Additional District Judge,
Additional District Court,
Paramakudi.
2. The Judge,
Family Court,
Chennai.



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B. PUGALENDHI , J.

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