



Tr.C.M.P(MD)No.206 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.206 of 2022

and

C.M.P(MD) No.3688 of 2022

A.Venkateshwari

... Petitioner

-Vs-

Mr.Anandaraj

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.65 of 2018, from the file of the Subordinate Judge, Valliyur and transfer to the Family Court, Coimbatore.

For Petitioner : Mr.Venkatachalam
For Respondent : Mr.N.Rajamohamed

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.65 of 2018, from the Subordinate Judge, Valliyur to the Family Court, Coimbatore.



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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 10.09.2000, as per Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.65 of 2018, Restitution of Conjugal Rights, before the Subordinate Court, Valliyur. Since the petitioner/wife is a resident of Coimbatore, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.65 of 2018 from the file of the Subordinate Court, Valliyur, to the Family Court, Coimbatore.

3.The learned counsel appearing for the petitioner submits that the distance between Coimbatore and Valliyur is around 400 kms and the petitioner is not having any means to travel such a long distance for appearing before the Subordinate Court, Valliyur.

4.The learned counsel appearing for the respondent objects for transfer of the proceedings in H.M.O.P.No.65 of 2021, from the file of the Subordinate Court, Valliyur to the Family Court, Coimbatore.



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5.The Hon'ble Apex Court in the case of ***Amitha Shah vs- Virendar Lal Shah***, reported in ***(2003)10 SCC 609***, has held that the convenience of the wife and more particularly the child must be taken into account while deciding the petition for transfer. Further, 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:



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- i. The proceedings in H.M.O.P.No.65 of 2018 on the file of the Subordinate Court, Valliur is withdrawn and ordered to be transferred to the file of the Family Court, Coimbatore.
- ii. The learned Subordinate Judge, Valliyur is directed to transmit the entire case records to the Family Court, Coimbatore forthwith and the learned Judge, Family Court, Coimbatore, who in turn 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 Subordinate Court,
Valliyur.
- 2.Family Court,
Coimbatore.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

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