



TR.C.M.P(MD).No.224 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.224 of 2022
C.M.P(MD).No.3925 of 2022

S.Harini

... Petitioner

versus

S.Balakrishnan

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in H.M.O.P.No.209 of 2021 on the file of the Sub Court, Kovilpatti, Thoothukudi District and transfer the same to the Family Court, Madurai District.

For Petitioner : Mr.K.Palmurugan
For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.209 of 2021 from the file of the Sub Court, Kovilpatti, Thoothukudi District to the Family Court, Madurai.



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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 15.09.2017, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent has filed H.M.O.P.No.209 of 2021 before the Sub Court, Kovilpatti, Thoothukudi District, seeking divorce. Since the petitioner/wife is a resident of Madurai, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.209 of 2021 from the file of the Sub Court, Kovilpatti, Thoothukudi District, to the Family Court, Madurai.

3.The learned counsel appearing for the petitioner submits that the distance between Thoothukudi and Madurai is around 100 kms and the petitioner is not having any means to travel such a long distance for appearing before the Sub Court, Kovilpatti, Thoothukudi District.

4.Heard the learned counsel appearing for the petitioner. Though notice served on the respondent and also name printed in the cause list, there was no representation for the respondent.



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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.209 of 2021 on the file of the Sub Court, Kovilpatti, Thoothukudi District is withdrawn and ordered to be transferred to the file of the Family Court, Madurai District.
- ii. The learned Subordinate Judge, Kovilpatti, Thoothukudi District, is directed to transmit the entire case records to the Family Court, Madurai District, forthwith and the learned Judge, Family Court, Madurai District, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2022

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To

1.Sub Court,
Kovil Patti,
Thoothukudi District.

2.Family Court,
Madurai.



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B.PUGALENDHI, J.

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