



TR.C.M.P(MD).No.230 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.230 of 2022

and

C.M.P(MD).No.4070 of 2022

Vadivukkarasi

... Petitioner

v.

Hariharaselvan

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in H.M.O.P.No.30 of 2021 on the file of the Sub Court, Sattur, Virudhunagar and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.S.Vikram

For Respondent : Mr.S.T.Sasidharan Tamilkani



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in H.M.O.P.No.30 of 2021 from the file of the Sub Court, Sattur, Virudhunagar to the file of the Family Court, Chennai.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 26.02.2020. Due to some misunderstanding, now, they are living separately and the respondent has filed H.M.O.P.No.30 of 2021 before the Sub Court, Sattur, Virudhunagar, seeking divorce. The petitioner is residing at Chennai in her parental house. Since the petitioner is not having sufficient means to travel and meet out her day-to-day expenses, she finds it difficult to travel from Chennai to Sattur, Virudhunagar. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.30 of 2021 from the file of the Sub Court, Sattur, Virudhunagar, to the file of the Family Court, Chennai.



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3. The learned counsel appearing for the petitioner submits that the respondent is not even providing any maintenance to the petitioner. The distance between Chennai and Sattur, Virudhunagar is around 550 kms. He further submits that the petitioner is not having sufficient means to travel and meet out her day-to-day expenses and there is no one to accompany her. Therefore, she finds it difficult to travel and appear before the Sub Court, Sattur, Virudhunagar, for each and every hearing.

4. Heard the learned counsel appearing for the respondent.

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 so of the child must be taken into account while deciding the petition for transfer. In the case of Rajani *Kishor Paradeshi Vs Kishor Babulal Paradeshi reported in (2005) 12*



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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 account that the convenience of wife is to be taken into consideration at the time of considering transfer petitions as held by the Hon'ble Apex 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. The proceedings in H.M.O.P.No.30 of 2021 pending on the file of the Sub Court, Sattur, Virudhunagar, is withdrawn and ordered to be transferred to the file of the Family Court, Chennai. The Sub Court, Sattur, Virudhunagar, is directed to transmit the entire case records to the Family Court, Chennai, forthwith. The



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learned Judge, Family Court, Chennai, shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes / No

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To

1. The Family Court,
Chennai.
2. The Sub Court,
Sattur, Virudhunagar.



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B.PUGALENDHI, J.

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