



TR.C.M.P(MD).No.254 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.254 of 2022

S.Janani

... Petitioner/Respondent(Wife)

versus

R.S.Aravinth

... Respondent/Petitioner(Husband)

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in H.M.O.P.No.258 of 2021 on the file of the Additional Subordinate Court, Kumbakonam and transfer the same to the file of the Family Court, Tiruchirappalli to try along with the case of H.M.O.P.No.624 of 2021.

For Petitioner : Mr.N.Sathish Babu

For Respondent : Mr.J.Prabhu



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.258 of 2021 from the file of the Additional Sub Court, Kumbakonam to the Family Court, Tiruchirappalli.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 27.11.2020, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent has filed H.M.O.P.No.258 of 2021 before the Additional Sub Court, Kumbakonam, seeking divorce. Since the petitioner/wife is a resident of Tiruchirappalli, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.258 of 2021 from the file of the Additional Sub Court, Kumbakonam, to the Family Court, Tiruchirappalli.

3.The learned counsel appearing for the petitioner submits that the distance between Tiruchirappalli and Kumbakonam is around 120 kms and it is very difficult for the petitioner to travel such a long distance for



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appearing before the Additional Sub Court, Kumbakonam, for each and every hearing.

4.Though notice was served on the respondent and his name has been printed in the cause list, there is no representation on behalf of him either in person or through his counsel.

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* 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 inconvenience 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



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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. The proceedings in H.M.O.P.No.258 of 2021 on the file of the Additional Sub Court, Kumbakonam is withdrawn and ordered to be transferred to the file of the Family Court, Tiruchirappalli. The learned Additional Sub Judge, Kumbakonam, is directed to transmit the entire case records to the Family Court, Tiruchirappalli forthwith and the learned Judge, Family Court, Tiruchirappalli, who in turn shall dispose of the same as expeditiously as possible. No costs.

20.07.2022

Rmk/Ogy

Index : Yes / No

Internet: Yes / No

To

- 1.The Additional Subordinate Judge, Kumbakonam.
- 2.The Judge, Family Court, Tiruchirappalli.

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B.PUGALENDHI, J.

Rmk/Ogy

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