



TR.C.M.P(MD)No.250 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD)No.250 of 2022

and

C.M.P(MD)No.4239 of 2022

C.Subbiah ... Petitioner
Vs

G.Srividhya ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the proceedings in HMOP.No.1141 of 2021 on the file of the Family Court, Madurai and transfer the same to the Sub Court, Tirunelveli.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondent : Mr.K.Muthumalai

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in HMOP.No.1141 of 2021 from the Family Court, Madurai to the Family Court, Tiruenveli.



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2.The marriage between the petitioner and the respondent was solemnized on 05.06.2011, as per the Hindu rites and customs. Now the respondent filed a petition seeking divorce in HMOP.No.1141 of 2021 before the Family Court, Madurai. Since the petitioner / husband is a resident of Tirunelveli District, he has filed this present Transfer Civil Miscellaneous Petition to transfer the above proceedings to the Family Court, Tirunelveli on the ground that he is a Dental Surgeon and he is also taking class in various places and therefore, he is finding it difficult to appear before the Court.

3.The learned Counsel for the respondent has raised his objection to the relief sought for by the petitioner.

4.The Hon'ble Apex Court in the case of **Amitha Shah vs- Virendar Lal Shah**, reported **(2003)10 SCC 609** has held that *the convenience of the wife and more so of the child must be taken into*



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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 convenience of the wife is to be preferred over the convenience of the husband.

5.It is seen that the petitioner is working as a Dental Surgeon and taking classes in various places and the respondent is also a Dental Surgeon in Madurai. Considering the facts and circumstances of the case and also considering the above decision of the Hon'ble Supreme Court, this Court is inclined to transfer the HMOP proceedings to the Sub Court, Madurai.

6.In the light of the above, this transfer civil miscellaneous petition stands disposed of with the following directions:

(i)The proceedings in HMOP.No.1141 of 2021 is withdrawn from the Family Court, Madurai and transferred to the Sub Court, Madurai.



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(ii) The learned Judge, Family Court,

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Madurai is directed to send the above case records within a period of fifteen days from the date of receipt of a copy of this order to the learned Sub Judge, Madurai, who in turn, on receipt of the case, shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition stands closed.

17.08.2022

Index: Yes/No
dsk

To

1. The Judge,
Family Court,
Madurai.
2. The Sub Judge,
Madurai.



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B. PUGALENDHI , J.

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