



TR.C.M.P(MD).No.236 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.236 of 2022
and C.M.P(MD).No.4068 of 2022

G.Anandha Lakshmi

... Petitioner

versus

R.Ananda Krishnan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw H.M.O.P.No.140 of 2022 on the file of the Subordinate Court, Poonamallee and transfer the same to the file of Subordinate Judge, Nanguneri, Tirunelveli District and try along with H.M.O.P.No.12 of 2022.

For Petitioner : Mr.J.Parekhkumar
For Respondent : Mr.N.S.Karthikeyan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.140 of 2022 from the file of the Subordinate Court, Poonamallee, to the file of Subordinate Judge, Nanguneri,



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Tirunelveli District.

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2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 18.04.2019, as per Hindu Rites and Customs. Due to some misunderstanding, now, both are living separately. Thereafter, the respondent has filed H.M.O.P.No.140 of 2020 before the Sub Court, Poonamallee, for divorce. Subsequently, the petitioner has also filed a petition in H.M.O.P.No.12 of 2022 before the learned Subordinate Judge, Nanguneri, for restitution of conjugal rights. Now, the petitioner is living along with her aged parents at Kalakad. Since she is not having sufficient means and there is no one to accompany her, she finds it difficult to travel from Kalakad to Poonamallee. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.140 of 2022 from the file of the Subordinate Court, Poonamallee, to the file of the Subordinate Judge, Nanguneri, Tirunelveli District.



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3. The learned counsel appearing for the petitioner submits that the petitioner is living along with her aged parents at Kalakad. Since it is a remote village, she has to take different buses to reach Poonamallee, which is 750 kms away from her residence. Further, she is not having sufficient means and she also depends upon her parents to meet out her day-to-day expenses. Since there is no one to accompany her, she finds it difficult to travel from Kalakad to Poonamallee, for appearing before the Subordinate Court, Poonamallee, for each and every hearing. Therefore, she seeks transfer of H.M.O.P.No.140 of 2022 from the file of the Subordinate Court, Poonamallee, to the file of the Subordinate Judge, Nanguneri, Tirunelveli District, where she filed H.M.O.P.12 of 2022 for restitution of conjugal rights.

4. The learned counsel appearing for the respondent submits that the respondent is working at Gujarat and if the divorce petition is transferred to Sub Court, Nanguneri, it will be very difficult for him to travel and it would take minimum three days to reach Nanguneri.



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Therefore, instead of Sub Court, Nanguneri, he requests for any Court at Madurai or Tiruchirappalli.

5. 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 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.

6. Though the learned counsel appearing for the respondent requests this Court to transfer H.M.O.P.No.140 of 2022 pending on the file of the Subordinate Court, Poonamallee, to any Court at Madurai or Tiruchirappalli, this Court, by taking into consideration that the convenience of wife is to be taken into consideration at the time of



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considering transfer petitions as held by the Hon'ble Supreme Court in the judgments cited supra, is inclined to allow the present petition.

7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.140 of 2022 pending on the file of the Sub Court, Poonamallee, is withdrawn and ordered to be transferred to the file of the learned Subordinate Judge, Nanguneri, to be tried along with H.M.O.P.No.12 of 2022. The learned Subordinate Judge, Nanguneri, shall dispose of the cases as expeditiously as possible, without insisting on personal appearance of respondent, if he is represented by a Counsel. However, the respondent shall appear before the Sub Court, Nanguneri, as and when his presence is required by the Court. No costs. Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes / No

Internet: Yes / No

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B.PUGALENDHI, J.

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To

1. The Subordinate Court,
Poonamallee.
2. The learned Subordinate Judge,
Nanguneri,
Tirunelveli District

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