



TR.C.M.P(MD).No.263 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.263 of 2022

and

C.M.P(MD).No.4488 of 2022

Pavithra

... Petitioner

versus

Gopalakrishnan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.142 of 2020 on the file of the Family Court, Dindigul and transfer the same to the Sub Court, Pattukkottai, Thanjavur District.

For Petitioner : Mr.B.Jameel Arasu

For Respondent : Mr.R.Thangapandian



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ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.142 of 2020 from the file of the Family Court, Dindigul to the file of Sub Court, Pattukkottai, Thanjavur District.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 01.07.2018, 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.142 of 2020 before the Family Court, Dindigul, for divorce. Now, the petitioner is living along with her aged parents at Pattukottai. Since she is not having sufficient means and there is no one to accompany her, she finds it difficult to travel from Pattukottai to Dindigul. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.142 of 2020 from the file of the the Family Court, Dindigul, to the file of the Sub



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3. The learned counsel appearing for the petitioner submits that the distance between Pattukkottai and Dindigul is around 220 kms. Now, the petitioner is living along with her aged parents at Pattukkottai. 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 direct bus to reach Dindigul and there is no one to accompany her, she finds it difficult to travel from Pattukkottai to Dindigul, for appearing before the Family Court, Dindigul, 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 (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.

6. This Court, by 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. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.142 of 2020 pending on the file of the Family Court, Dindigul, is withdrawn and ordered to be transferred to the file of the Sub Court, Pattukkottai, Thanjavur District. The Family Court, Dindigul, is directed to transmit the entire case records to the Sub Court, Pattukkottai, forthwith. The learned Sub



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Judge, Sub Court, Pattukkottai, shall dispose of the case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes / No
Internet: Yes / No
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To

1. The Family Court,
Dindigul.
2. The Sub Court,
Pattukkottai,
Thanjavur District.



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B.PUGALENDHI, J.

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