



TR.C.M.P(MD)No.277 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P (MD)No.277 of 2022

and

C.M.P (MD)No.4688 of 2022

Divya Ilakiya ... Petitioner
Vs

Rajeswaran ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw and transfer HMOP No.17 of 2022 on the file of the Subordinate Judge, Pattukottai to the Family Court, Madurai.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondent : Mr.RM.Arun Swaminathan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in HMOP.No.17 of 2022 from the file of the Sub Court, Pattukottai, to the file of the Family Court, Madurai.



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2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 27.01.2021. Now the husband filed HMOP.No.17 of 2022 before the Sub Court, Pattukottai for restitution of conjugal rights. Since the petitioner / wife is working in Bangalore and at present she is working from home at Madurai, she has filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in HMOP.No.17 of 2022 from the file of the Sub Court, Pattukottai, to the file of the Family Court, Madurai.

3.The learned counsel appearing for the petitioner submits that the marriage between the petitioner and the respondent was solemnized on 27.01.2021 in Madurai. Then due to misunderstanding they are living separately. While so, the respondent husband filed a proceedings in HMOP.No.17 of 2022 before the Sub Court, Pattukottai for restitution of conjugal rights. The distance between Madurai and Pattukottai is 185 Kms. Further, the husband has also foisted a



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criminal case as against the order in Crime No.109 of 2022 on 21.04.2022 for the offence punishable under Sections 294(b) and 506(ii) IPC and the petitioner and her family members have obtained anticipatory bail in that criminal case. If the petitioner visits Pattukottai the respondent may foist further case as against the petitioner. Moreover, the respondent husband is in the USA and he is prosecuting the case through his power of attorney / mother. Therefore, the proceedings in HMOP No.17 of 2022 may be transferred to the Family Court, Madurai.

4.The learned Counsel for the respondent submits the case is pending on the file of the Sub Court, Pattukottai and the presence of the petitioner is not required. Even before registration of the criminal case in Crime No.109 of 2022, the HMOP proceedings were initiated. The petitioner is working in Bangalore and it would make no difference for her whether it is Madurai or Pattukottai. Even the respondent is ready to proceed with the trial and this Court may direct the



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trial Court to dispose of the proceedings in HMOP
within a reasonable time.

5.Heard the learned Counsel on either side and
perused the materials placed on record.

6.The marriage between the petitioner and the
respondent was solemnised in the year 2021.
The respondent is in the USA and has filed an
application in HMOP No.17 of 2022 for restitution of
conjugal rights through power of attorney /mother.
Admittedly the criminal case is registered against the
petitioner on 02.04.2022 and the learned Counsel
alleged that there is a life threat for the power
holder. The respondent is at liberty to give the power
of attorney to some other and contest the case.

5.This Court being satisfied with the reasons
stated in the affidavit filed in support of this
petition and also taking into consideration that it is
well settled law that convenience of wife is to be



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taken into consideration at the time of considering transfer applications as held by the Hon'ble Supreme Court in the judgment reported in **2008 (9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, is inclined to allow the present petition.

6.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in HMOP.No.17 of 2022 on the file of the Sub Court, Pattukottai, is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The learned Sub Judge, Pattukottai is directed to transmit the entire case bundle forthwith to the learned Judge, Family Court, Madurai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

18.07.2022

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To

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



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B. PUGALENDHI , J.

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