



Tr.C.M.P(MD)No.292 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.292 of 2022

and

C.M.P(MD) No.4873 of 2022

Vinola

... Petitioner

-Vs-

Sudhakar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.20 of 2022 on the file of the Subordinate Court, Thanjavur and transfer the same to the Family Court, Trichy.

For Petitioner : Mr.Dr.R.Ramachandran
For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.20 of 2022 from the file of the Subordinate Court, Thanjavur to the Family Court, Trichy.



Tr.C.M.P(MD)No.292 of 2022

WEB COPY

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 08.03.2015, as per the Hindu Rites and Customs. Out of the wedlock, they have blessed with two female children. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.20 of 2022, seeking divorce, before the Principal Subordinate Court, Thanjavur. Since the petitioner/wife is a resident of Trichy, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.20 of 2022 from the file of the Principal Subordinate Court, Thanjavur to the Family Court, Trichy.

3.The learned counsel appearing for the petitioner submits that the distance between Thanjavur and Trichy is more than 100 kms and the petitioner is not having any means to travel such a long distance and also there is no one to accompany her.

4.Though notice was served upon the respondent, there is no representation for him either in person or through counsel.



Tr.C.M.P(MD)No.292 of 2022

WEB COPY

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 particularly the child must be taken into account while deciding the petition for transfer. Further, 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 being satisfied with the reasons stated in the affidavit filed in support of this petition and also 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.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.20 of 2022 on the file of the Principal Subordinate Court, Thanjavur is withdrawn and



Tr.C.M.P(MD)No.292 of 2022

WEB COPY

ordered to be transferred to the file of the Family Court, Trichy. The learned Subordinate Judge, Thanjavur is directed to transmit the entire case records to the Family Court, Trichy forthwith and the learned Judge, Family Court, Trichy, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

27.07.2022

Index : Yes/No
Internet : Yes/No
vrn

To

- 1.The Principal Subordinate Court, Thanjavur
- 2.The Family Court, Trichy.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Tr.C.M.P(MD)No.292 of 2022

B.PUGALENDHI, J.

vrn

Order made in
Tr.C.M.P(MD)No.292 of 2022

27.07.2022