



TR.C.M.P(MD).No.288 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.288 of 2022

and

C.M.P(MD).No.4820 of 2022

Birundhadevi

... Petitioner

v.

Gopalakrishnan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C to withdraw the case in HMOP.No.146 of 2021 on the file of the Principal Sub Court, Dindigul and transfer the same to the Sub Court, Sattur.

For Petitioner : Mr.M.Ashokkumar

For Respondent : Mr.R.R.Kannan



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in HMOP.No.146 of 2021 from the file of the Principal Sub Court, Dindigul to the file of the Sub Court, Sattur.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 23.02.2015 and out of the wedlock, they are having a six years old child. Due to some misunderstanding, now, they are living separately and the respondent has filed HMOP.No.146 of 2021 before the Principal Sub Court, Dindigul, seeking restitution of conjugal rights. The petitioner is residing at Sattur in her parental house. Since the petitioner is not having sufficient means to travel and meet out her day-to-day expenses, she finds it difficult to travel from Sattur to Dindigul. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in HMOP.No.146 of 2021 from the file of the Principal Sub Court, Dindigul, to the file of the Sub Court, Sattur.



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WEB COP 3. When the petition came up for hearing today, learned Counsel for the petitioner submitted that pursuant to the orders of this Court, the matter was referred to the mediation and conciliation centre, where an agreement was arrived upon between the parties.

4. Learned Counsel for the respondent acknowledged the said submission and submitted that he is not having any objection in allowing this petition.

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 so of the child must be taken into account while deciding the petition for transfer. 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.



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6. In view of the submissions made by the learned Counsel on either side and taking into account that the convenience of wife is to be taken into consideration at the time of considering transfer petitions as held by the Hon'ble Apex 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 HMOP.No.146 of 2021 pending on the file of the Principal Sub Court, Dindigul, is withdrawn and ordered to be transferred to the file of the Sub Court, Sattur. The learned Judge, Principal Sub Court, Dindigul, is directed to transmit the entire case records to the Sub Court, Sattur, forthwith. The learned Judge, Sub Court, Sattur, shall expedite the proceedings and shall endeavour to dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet: Yes / No
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15.11.2022



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To

WEB COPY

1. The Sub Court,
Sattur.
2. The Principal Sub Court,
Dindigul.



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B.PUGALENDHI, J.

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