



TR.C.M.P(MD).No.284 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.284 of 2022
and C.M.P(MD).No.4769 of 2022

Sundar Raj

... Petitioner

versus

Meena

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in M.C.No.21 of 2022 pending on the file of the Family Court, Tiruchirappalli and transfer the same to the file of the learned Principal Subordinate Judge, Cuddlore.

For Petitioner : Mr.K.A.Thirumalaiappan

For Respondent : Mr.J.K.Jeyaseelan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in M.C.No.21 of 2022 from the file of the Family



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Court, Tiruchirappalli, to the file of the learned Principal Subordinate Judge, Cuddalore.

2. The petitioner herein is the husband and the respondent herein is the wife. The marriage between the petitioner and the respondent was solemnized on 22.08.2005, as per Hindu Rites and Customs and out of the wedlock, they are blessed with a female child. Due to some misunderstanding, the petitioner filed H.M.O.P.No.81 of 2013 before the Principal Subordinate Court, Cuddalore, for divorce. The respondent has also filed H.M.O.P.No.323 of 2013 and M.C.No.171 of 2013 seeking restitution of conjugal rights and interim maintenance. In the meantime, H.M.O.P.No.81 of 2013 was transferred to Trichy and renumbered as H.M.O.P.No.95 of 2016. Pending litigation, the petitioner and the respondent have entered into compromises and based on the said compromise memo, all the cases were closed. Thereafter, the respondent lived happily with his wife. However, she lodged a complaint before the Additional Mahila Court, Tiruchirappalli, alleging



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that she was subjected to cruelty and harassment by demanding dowry.

The said complaint was numbered as D.V.C.No.66 of 2021.

Thereafter, the petitioner herein filed H.M.O.P.No.321 of 2021 before the Family Court, Cuddalore, seeking divorce. Now, the wife has also filed a petition seeking maintenance in M.C.No.21 of 2022 before the Family Court, Tiruchirappalli. Therefore, the petitioner has filed petition seeking transfer of M.C.No.21 of 2022 from the file of the Family Court, Tiruchirappalli to the file of the learned Principal Subordinate Judge, Cuddalore.

3. The learned counsel for the petitioner submits that the petitioner's mother is suffering from old-age ailments and therefore, he alone has to take care of his mother. He further submits that the petitioner is also facing life threat at the hands of the respondent and her relatives. Therefore, he finds it difficult to appear before the Family Court, Tiruchirappalli.



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4. 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.

5. In view of the above decision and being not satisfied with the reasons stated by the petitioner, this transfer civil miscellaneous petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.09.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Family Court,
Tiruchirappalli.



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B.PUGALENDHI, J.

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