



Tr.C.M.P(MD)No.286 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

CORAM

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

Tr.C.M.P(MD)No.286 of 2022

and

C.M.P(MD) No.4806 of 2022

M.Rajeshwari

... Petitioner

-Vs-

J.Rupesh @ Rupesh Kumar

... Respondent

**Prayer:** Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.12 of 2022 pending before the Sub Court, Theni and transfer the same to the Sub Court at Madurai.

For Petitioner : Mr.K.K.Samy

For Respondent : Mr.B.Sukumar

**ORDER**

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in H.M.O.P.No.12 of 2022 from the file of the Sub Court, Theni to the Sub Court, Madurai.



*Tr.C.M.P(MD)No.286 of 2022*

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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 01.11.2019. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.12 of 2022, seeking divorce, before the Sub Court, Theni. Since the petitioner/wife is a resident of Madurai, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.12 of 2022 from the file of the Sub Court, Theni to the Sub Court, Madurai.

3.The learned counsel appearing for the petitioner submits that the distance between Theni and Madurai is around 90 kms. The learned counsel further submits that the petitioner is not having any means to travel such a long distance and there is no one to accompany her.



Tr.C.M.P(MD)No.286 of 2022

WEB COPY

4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in H.M.O.P.No.12 of 2022 from the file of the Sub Court, Theni to the Sub Court, Madurai.

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.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, this Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration that the



*Tr.C.M.P(MD)No.286 of 2022*

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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.12 of 2022, on the file of the Sub Court, Theni is withdrawn and ordered to be transferred to the file of the Sub Court, Madurai. The learned Subordinate Judge, Theni is directed to transmit the entire case records to the Subordinate Judge, Madurai forthwith and the learned Subordinate Judge, Madurai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

**11.11.2022**

Index : Yes/No

Internet : Yes/No

vrn



*Tr.C.M.P(MD)No.286 of 2022*

**To**

- 1.The Sub Court, Theni.
- 2.The Sub Court, Madurai.
- 3.The Record Keeper, V.R.Section,  
Madurai Bench of Madras High Court, Madurai.



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*Tr.C.M.P(MD)No.286 of 2022*

**B.PUGALENDHI, J.**

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**Order made in**  
**Tr.C.M.P(MD)No.286 of 2022**  
**and**  
**C.M.P(MD) No.4806 of 2022**

**11.11.2022**