



Tr.C.M.P(MD)No.294 of 2022

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.294 of 2022

and

C.M.P(MD) No.4876 of 2022

R.Ponselvi

... Petitioner

-Vs-

K.Mani

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.24 of 2022 on the file of the Subordinate Court, Arani, T.V.Malai (Thiruvannamalai) District and transfer the same to the file of the Subordinate Court, Tenkasi.

For Petitioner : Mr.S.Balamurugan
For Respondent : Mr.A.V.Raja

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.24 of 2022 from the file of the Subordinate Court, Arani, Thiruvannamalai District to the file of the Subordinate Court, Tenkasi.



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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 13.05.2018, as per the Hindu Rites and Customs. Out of the wedlock, they have blessed with a male baby. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.24 of 2022, seeking divorce, before the Subordinate Court, Arani. The petitioner filed H.M.O.P.No.102 of 2022 for Restitution of Conjugal Rights before the Subordinate Court, Tenkasi. Since the petitioner/wife is a resident of Tenkasi, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.24 of 2022 from the file of the Subordinate Court, Arani to the Subordinate Court, Tenkasi.

3.The learned counsel appearing for the petitioner submits that the distance between Arani and Tenkasi is around 546 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.The learned counsel appearing for the respondent objects for transfer of the proceedings in H.M.O.P.No.24 of 2022 from the file of



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the Subordinate Court, Arani, Thiruvannamalai District to the file of the Subordinate Court, Tenkasi.

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.



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7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.24 of 2022 on the file of the Subordinate Court, Arani, Thiruvannamalai is withdrawn and ordered to be transferred to the file of the Sub Court, Tenkasi. The learned Subordinate Judge, Arani is directed to transmit the entire case records to the Sub Court, Tenkasi forthwith and the learned Subordinate Judge, Tenkasi, 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 Subordinate Court, Arani, Thiruvannamalai.
- 2.The Subordinate Court, Tenkasi.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

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