



Tr.C.M.P(MD)No.316 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.316 of 2022

and

C.M.P(MD) No.5289 of 2022

Sathya

... Petitioner

-Vs-

Sellakannu

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.13 of 2022, on the file of the Family Court, Theni and to transfer the same to the Family Court, Chennai for disposal.

For Petitioner : Mr.B.Muneeswaran

For Respondent : Mr.P.Mahendran



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.13 of 2022, from the file of the Family Court, Theni to the Family Court, Chennai.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.12.2010. Out of the wedlock, they have blessed with two children. Subsequently, due to some difference of opinion, they separated. The respondent filed H.M.O.P.No.13 of 2022, seeking divorce, before the Family Court, Theni. Since the petitioner/wife is a resident of Chennai, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.13 of 2022, from the file of the Family Court, Theni to the Family Court, Chennai.



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3.The learned counsel appearing for the petitioner submits that the distance between Chennai and Theni is around 500 kms and it is very difficult for her to travel such a long distance to appear before the Family Court, Theni. He further submits that there is no one to accompany her.

4.The learned counsel appearing for the respondent submits that the petitioner deserted her two children and at present she is residing at Chennai. He further submits that the minor children are now with the respondent and he being a auto driver has taken care of them. The children are also present before this Court and stated that they are now residing with their father and he is only taking care of them. They further stated that they are studying at Government Kallar Middle School, Theni.



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5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The Honourable Apex Court in the case of ***Amitha Shah vs- Virendar Lal Shah***, reported in ***(2003)10 SCC 609*** and in the case of ***Rajani Kishor Paradeshi Vs Kishor Babulal Paradeshi*** reported in ***(2005) 12 SCC 237*** has held that the convenience of the wife and more particularly the convenience of the child must be taken into account while deciding the petition for transfer. In the present case on hand, the children of the parties are present before this Court and gave a statement that they are residing along with their father alone and he is only taking care of them and they are also studying at Theni.

7.In view of the above, this Court is not inclined to entertain this petition and accordingly, this transfer civil miscellaneous



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petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.08.2022

Index : Yes/No
Internet : Yes/No
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To

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



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B.PUGALENDHI, J.

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Order made in
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