



TR.C.M.P(MD).No.317 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.317 of 2022

and

C.M.P(MD).No.5307 of 2022

Suganya

... Petitioner

versus

1. Ramesh

2. Karuppasamy

... Respondents

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.378 of 2021 on the file of the Family Court, Dindigul and transfer the same to the file of the Sub Court, Pollachi, Coimbatore District.

For Petitioner : Mr.R.Jegadeeswaran

For Respondents : No appearance



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.378 of 2021 from the file of the Family Court, Dindigul, to the file of Sub Court, Pollachi, Coimbatore District.

2. The petitioner herein is the wife and the first respondent herein is the husband. The marriage between them was solemnized on 05.02.2015, as per Hindu Rites and Customs and out of the wedlock, they are blessed with a male child. Due to some misunderstanding, now, they are living separately. Thereafter, the first respondent has filed H.M.O.P.No.378 of 2021 before the Family Court, Dindigul, seeking divorce. Now, the petitioner and her child are living along with her old-aged parents at Pollachi. Since the petitioner alone has to take care of her child and her aged parents, she finds it difficult to travel from Pollachi to Dindigul. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.378 of



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2021 from the file of the Family Court, Dindigul, to the file of the Sub Court, Pollachi, Coimbatore District.

3. The learned counsel appearing for the petitioner submits that the distance between Pollachi and Dindigul is around 127 kms. He further submits that the petitioner is not having sufficient means to travel and she depends upon her parents to meet out her day-to-day expenses. Since she alone has to take care of her 7-year-old child and her aged parents and there is no one to accompany her, she finds it difficult to travel from Pollachi to Dindigul for appearing before the Family Court, Dindigul, for each and every hearing.

4. There is no representation for the respondents.

5. 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*



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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.

6. This Court, by 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.

7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.378 of 2021 pending on the file of the Family Court, Dindigul, is withdrawn and ordered to be transferred to the file of the Sub Court, Pollachi, Coimbatore District. The Family Court, Dindigul, is directed to transmit the entire case records to the Sub Court, Pollachi, Coimbatore District, forthwith. The



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learned Sub Judge, Sub Court, Pollachi, Coimbatore District, shall

dispose of the case as expeditiously as possible. No costs.

Consequently, connected miscellaneous petition is closed.

04.11.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Family Court,
Dindigul.
2. The Sub Court,
Pollachi,
Coimbatore District.



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B.PUGALENDHI, J.

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