



TR.C.M.P(MD).No.374 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.374 of 2022
and C.M.P(MD).No.6176 of 2022

Jerina Mari Victoriya

... Petitioner

versus

Minor J.Yeberson Nathaniyal
Chellaiya
S/o.C.Jesukhan (Guardian)
No.24, A.1, Chinnappan Veethi,
Near CSI Elementary School,
Rathinapuri,
Coimbatore District – 641 027.

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the petition in M.C.No.75 of 2022 on the file of the Principal District Family Court, Coimbatore and transfer the same to be tried at Family Court, Srivilliputtur.

For Petitioner : M/s.M.Vijayarathinam

For Respondent : Mr.P.Jothikumar



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ORDER

The petitioner herein is the mother of the respondent minor child, who filed M.C.No.75 of 2022, before the Family Court, Coimbatore, seeking maintenance from his mother. The respondent child is in the custody of his father and he filed the above maintenance case through his father.

2. The learned counsel for the petitioner submits that the petitioner is working as a Teacher at Pudukottai and she is a native of Srivilliputtur. She already filed G.W.O.P.No.555 of 2022 before the Family Court at Srivilliputtur and it is posted on 19.12.2022. The learned counsel for the petitioner has also referred about the matrimonial advertisement made by the petitioner's husband and submits that in the matrimonial advertisement, he has claimed that he is having annual income from Rs.7 lakhs to Rs.8 lakhs, however, he filed the maintenance application through minor child. The learned counsel



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further submits that there were 15 cases between the petitioner and her husband and the maintenance application has also been filed with an intention to harass the petitioner.

3. The learned counsel appearing for the respondent submits that the minor child is studying 7th standard in Infant Jesus Matric Higher Secondary School, Coimbatore and he is in the custody of his father. He further submits that his father is also taking care of his aged mother, who is aged about 75 years and also suffering certain ailments. Therefore, he finds difficulty to meet out the school expenses of the child and also to meet out other expenses. Hence, the maintenance application is filed. The learned counsel for the respondent further submits that the husband alone has to take care of his aged mother and the minor child. If the maintenance case is transferred from the file Family Court, Coimbatore, to the file of the Family Court, Srivilliputtur, it would cause inconvenience not only to the husband but also to the child.



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4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

5. As per the decision of the Hon'ble Apex Court in the case of ***Amitha Shah vs- Virendar Lal Shah***, reported in ***(2003)10 SCC 609***), the convenience of the wife and more so of the child has to be taken into account while deciding the petition for transfer.

6. The petitioner is working as a Teacher at Pudukkottai. Therefore, it will be very convenient for her to appear before the Court at Srivilliputtur, but, it will not be convenient for the child, since he is in the custody of his father. The guardian/father of child is taking care of the minor child as well as his aged mother, who is suffering from ailments. Therefore, considering the convenience of the child and also considering the convenience of the petitioner, this Court is inclined to transfer M.C.No.75 of 2022 from the file of the Family Court,



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Coimbatore to the file of the Family Court, Tiruchirappalli.

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7. Accordingly, the Transfer Civil Miscellaneous Petition is disposed of. The proceedings in M.C.No.75 of 2022 pending on the file of the Family Court, Coimbatore, is withdrawn and ordered to be transferred to the file of the Family Court, Tiruchirappalli. The Family Court, Coimbatore, is directed to transmit the entire case records to the Family Court, Tiruchirappalli, forthwith. No costs. Consequently, connected miscellaneous petition is closed.

09.12.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Family Court,
Coimbatore.

2. The Family Court,
Tiruchirappalli.



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B.PUGALENDHI, J.

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