



Tr.C.M.P(MD)No.323 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.323 of 2021

and

C.M.P(MD) No.6848 of 2021

Amala Mersy Anusha

... Petitioner

-Vs-

A.Joseph Samraj

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in I.D.O.P.No.129 of 2021 on the file of the Family Court, Tirunelveli and to transfer the same to any other competent court in the nearby Kanyakumari District, more particularly, the Family Court at Nagercoil forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondent : Mr.S.Gogulraj

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in I.D.O.P.No.129 of 2021 from the file of the Family Court, Tirunelveli to the Family Court at Nagercoil.



Tr.C.M.P(MD)No.323 of 2021

WEB COPY

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 18.01.2019. Out of the wedlock, they have blessed with a male child on 23.03.2020. Subsequently, due to some difference of opinion, they separated. The respondent filed I.D.O.P.No.129 of 2021, for Restitution of conjugal rights, before the Family Court, Tirunelveli. Since the petitioner/wife is a resident of Kanyakumari, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in I.D.O.P.No.129 of 2021, from the file of the Family Court, Tirunelveli to the the Family Court at Nagercoil.

3.The learned counsel appearing for the petitioner submits that the distance between Tirunelveli and Nagercoil is around 100 kms and she finds it very difficult to travel such a long distance as there is no one to accompany her.



Tr.C.M.P(MD)No.323 of 2021

WEB COPY

4.The learned counsel appearing for the respondent objects for transfer of the proceedings in I.D.O.P.No.129 of 2021 from the file of the Family Court, Tirunelveli to the Family Court at Nagercoil.

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



Tr.C.M.P(MD)No.323 of 2021

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.

7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in I.D.O.P.No.129 of 2021, on the file of the Family Court, Tirunelveli is withdrawn and ordered to be transferred to the file of the Family Court at Nagercoil. The learned Judge, Family Court, Tirunelveli is directed to transmit the entire case records to the Family Court, Nagercoil forthwith and the learned Judge, Family Court, Nagercoil, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

16.12.2022

Index : Yes/No
Internet : Yes/No
vrn



Tr.C.M.P(MD)No.323 of 2021

WEB COPY

To

- 1.The Family Court, Tirunelveli
- 2.The Family Court at Nagercoil.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Tr.C.M.P(MD)No.323 of 2021

B.PUGALENDHI, J.

vrn

Order made in
Tr.C.M.P(MD)No.323 of 2021
and
C.M.P(MD) No.6848 of 2021

16.12.2022