



Tr.C.M.P(MD)No.350 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.350 of 2021

and

C.M.P(MD) No.7066 of 2021

Santhanalakshmi

... Petitioner

-Vs-

N.Sathishkumar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case pending in H.M.O.P.No.168 of 2021, on the file of the learned II Additional Sub Judge, Coimbatore and to transfer the same to the file of the Family Court, Srivilliputhur and direct the same to be tried together along with H.M.O.P.No.144 of 2019, on the file of the Family Court, Srivilliputhur.

For Petitioner : Mr.G.Mariappan
For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.168 of 2021, from the



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file of the II Additional Sub Court, Coimbatore to the Family Court, Srivilliputhur to try along with H.M.O.P.No.144 of 2019 pending on its file.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 05.09.2008, as per the Hindu Rites and Customs. Out of the said wedlock, they were blessed with a female baby on 02.06.2009. Subsequently, due to some difference of opinion, the petitioner filed H.M.O.P.No.144 of 2019, before the Family Court, Srivilliputhur, seeking divorce and the husband has filed H.M.O.P.No.168 of 2021, before the II Additional Sub Judge, Coimbatore for Restitution of conjugal rights. Since the petitioner/wife is a resident of Srivilliputhur, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.168 of 2021 from the file of the II Additional Sub Judge, Coimbatore to the Family Court, Srivilliputhur to try along with H.M.O.P.No.144 of 2019 pending on its file.



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3.The learned counsel appearing for the petitioner submits that the distance between Srivilliputhur and Coimbatore is around 550 kms to and fro and it is very difficult for the petitioner to travel such a long distance for appearing before the II Additional Sub Judge, Coimbatore for each and every hearing. He further submits that if the cases are tried by different Courts, there is possibility of conflicting decisions.

4.Though notice was ordered to the respondent, it was returned with an endorsement “addressee cannot be located”. Hence, this Court by earlier order dated 02.09.2021, directed the petitioner to serve notice on the counsel, who is appearing for the respondent in the trial Court in H.M.O.P.No.168 of 2021. The petitioner has also served notice on the respondent and filed proof of service. Even then, there is no representation for the respondent.

5.This Court, being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration that it is well settled law that convenience of wife is to be



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taken into consideration at the time of considering transfer applications as held by the Honourable Supreme Court in the judgment reported in **2008(9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, is inclined to allow the present petition.

6.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.168 of 2021 on the file of the II Additional Sub Court, Coimbatore is withdrawn and ordered to be transferred to the file of the Family Court, Srivilliputhur. The learned II Additional Sub Judge, Coimbatore is directed to transmit the entire case records to the Family Court, Srivilliputhur forthwith and the learned Judge, Family Court, Srivilliputhur, who in turn shall try the same along with H.M.O.P.No.144 of 2019 pending on its file and dispose of both the cases as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

01.07.2022

Index : Yes/No
Internet : Yes/No
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To
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- 1.The II Additional Sub Court, Coimbatore.
- 2.The Family Court, Srivilliputhur.
- 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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Order made in
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