



TR.C.M.P(MD).No.367 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.367 of 2022

and

C.M.P(MD).No.6097 of 2022

Subashini

... Petitioner

versus

Eshwaran

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.11 of 2022 from the file of the Sub Court, Thiruchendhur and transfer the same to the Family Court, Nagercoil or any other Sub Court in Nagercoil.

For Petitioner : Mr.K.P.Narayanakumar

For Respondent : No appearance



TR.C.M.P(MD).No.367 of 2022

WEB COPY

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.11 of 2022 from the file of the Sub Court, Thiruchendhur, to the file of the Family Court, Nagercoil

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 18.01.2008, as per the Hindu Rites and Customs and out of the wedlock, they are blessed with two children. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.11 of 2022 before the Sub Court, Thiruchendur, seeking divorce. Now, the petitioner and her children are living along with her aged parents at Nagercoil. Since there is no one to accompany her, she finds it difficult to travel from Nagercoil to Thiruchendur. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.11 of 2022



TR.C.M.P(MD).No.367 of 2022

from the file of the Sub Court, Thiruchendur, to the file of the Family Court, Nagercoil.

3. The learned counsel appearing for the petitioner submits that the distance between Nagercoil and Thiruchendur is around 102 kms. He further submits that the petitioner is a sick person and is taking treatment to the illness by staying with her aged parents. Since her parents also affected with old age ailments and there is no one to accompany her, she finds it difficult to travel from Nagercoil to Thiruchendur for appearing before the Sub Court, Thiruchendur, for each and every hearing. Therefore, she seeks for transfer of H.M.O.P.No.11 of 2022 from the file of the Sub Court, Thiruchendur, to the file of the Family Court, Nagercoil.

4. Though notice was served on the respondent and his name has been printed in the cause list, there is no representation on behalf of him either in person or through a counsel.



TR.C.M.P(MD).No.367 of 2022

WEB COPY

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 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.11 of 2022 pending on the



TR.C.M.P(MD).No.367 of 2022

file of the Sub Court, Thiruchendur, is withdrawn and ordered to be transferred to the file of the Family Court, Nagercoil. The Sub Court, Thiruchendur, is directed to transmit the entire case records to the Family Court, Nagercoil, forthwith. The learned Judge, Family Court, Nagercoil, 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 Sub Court,
Thiruchendhur.
2. The Family Court,
Nagercoil.



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TR.C.M.P(MD).No.367 of 2022

B.PUGALENDHI, J.

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TR.C.M.P(MD).No.367 of 2022

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