



TR.C.M.P(MD).No.387 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.387 of 2022
and C.M.P(MD).No.6322 of 2022

R.Shamili

... Petitioner/Petitioner

versus

C.Manojkumar

... Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in H.M.O.P.No.56 of 2022 on the file of the Principal Sub Court, Tenkasi and transfer the same to the Sub Court, Valliyoor.

For Petitioner : Mr.T.Selvakumaran
For Respondent : Mr.R.J.Karthick

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.56 of 2022 from the file of the Principal Subordinate Court, Tenkasi to the Subordinate Court, Valliyoor.



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2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 10.05.2019, as per the Hindu Rites and Customs and out of the wedlock, they are blessed with male child. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.56 of 2022 before the Principal Subordinate Court, Tenkasi, seeking divorce. Since the petitioner/wife is living along with her parents at Vadakkankulam, she finds it difficult to travel from her native place to Tenkasi. Therefore, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.56 of 2022 from the file of the Principal Subordinate Court, Tenkasi to the Subordinate Court, Valliyoor.

3.The learned counsel appearing for the petitioner submits that the distance between the petitioner's native place and Tenkasi is around 130 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 2-year-old child and her aged parents and there is no one to accompany her, she



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finds it difficult to travel from Tirunelveli to Tenkasi for appearing before the Principal Subordinate Court, Tenkasi, for each and every hearing.

4.Heard the learned counsel appearing for the respondent.

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 being satisfied with the reasons stated in the affidavit filed 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.



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7.In the light of the above, this transfer civil miscellaneous petition stands allowed with the following directions:

“(i)The proceedings in H.M.O.P.No.56 of 2022 on the file of the Principal Subordinate Court, Tenaksi, is withdrawn and ordered to be transferred to the file of the Subordinate Court, Valliyoor.

(ii)The learned Principal Subordinate Court, Tenaksi, is directed to transmit the entire case records to the Subordinate Court, Valliyoor, forthwith and the learned Judge, Subordinate Court, Valliyoor, who in turn shall dispose of the same as expeditiously as possible. “

No costs. Consequently, connected miscellaneous petition is closed.

18.11.2022

Index : Yes / No
Internet: Yes / No
Rmk



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To

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- 1.The Principal Subordinate Judge, Tenkasi.
- 2.The Subordinate Judge, Valliyoor.



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B.PUGALENDHI, J.

Rmk

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