



TR.C.M.P(MD)No.388 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P (MD)No.388 of 2022

and

C.M.P (MD)No.6323 of 2022

Hemalatha

... Petitioner

Vs

1.Sankilikumar

2.Balasubaramanyian

... Respondents

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw HMOP.No.72 of 2019 pending before the Sub Court, Paramakudi and transfer the same to the Family Court, Madurai.

For Petitioner : Mr.A.Thirupathy

For Respondents : No representation

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.72 of 2019 from Sub-Court, Paramakudi to Family Court, Madurai.

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2.The marriage between the petitioner and the first respondent was solemnized on 19.03.2018. There are differences of opinion between them. The petitioner has filed a petition in HMOP.No.72 of 2019 seeking divorce before Sub-Court, Paramakudi. The petitioner has filed this present Transfer Civil Miscellaneous Petition to transfer the above proceedings to Family Court, Madurai on the ground that she has filed the above HMOP while she was staying in the residence of her uncle's house at Paramakudi along with her parents and now she has shifted her residence to Madurai, which is her parental house. She is depending upon her aged parents. Since she has no means, she has also filed a petition in M.C.No.128 of 2022 on the file of the Family Court, Madurai.

3.Though respondent has been served and name has been printed in the cause list, there is no representation for the respondent.



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4.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.

5.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.

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

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(i)The case in HMOP.No.72 of 2019 on the file of the Sub Court, Paramakudi is transferred to the Family Court, Madurai;

(ii)The learned Sub Judge, Paramakudi is directed to send the above case records within a period of fifteen days from the date of receipt of a copy of this order to the learned Judge, Family Court, Madurai, who in turn, on receipt of the case, shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition stands closed.

28.10.2022

Index: Yes/No

To

- 1.The Sub Judge,
Paramakudi.
- 2.The Judge,
Family Court,
Madurai.

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B. PUGALENDHI , J.

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