



TR.C.M.P(MD).No.386 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.386 of 2022
and C.M.P(MD).No.6309 of 2022

K.Dhanashree

... Petitioner/Respondent

versus

P.Karthick Prabhu

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.428 of 2022 on the file of the Family Court, Theni and transfer the same to the Family Court, Erode.

For Petitioner : Mr.K.Guhan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.428 of 2022 from the file of the Family Court, Theni to the file of the Family Court, Erode.



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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 04.06.2015, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent filed H.MO.P.No.428 of 2022 before the Family Court, Theni, seeking to dissolve the marriage. Since the petitioner/wife is living along with her parents at Erode, she finds it difficult to travel from Erode to Theni. Therefore, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.MO.P.No.428 of 2022 from the file of the Family Court, Theni to the Family Court, Erode.

3.The learned counsel appearing for the petitioner submits that the distance between Erode and Theni is around 210 kms and it is very difficult for the petitioner to travel such a long distance for appearing before the Family Court, Theni, for each and every hearing.

4.Notice was served to the respondent and his name was also printed in the cause list. But, there is no representation on his behalf.



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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.

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



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“(i)The proceedings in H.MO.P.No.428 of 2022 on the file of the Family Court, Theni, is withdrawn and ordered to be transferred to the file of the Family Court, Erode.

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

No costs. Consequently, connected miscellaneous petition is closed.

09.12.2022

Index : Yes / No

Internet: Yes / No

Rmk

To

- 1.The Judge of Family Court, Erode.
- 2.The Judge of Family Court, Theni.

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B.PUGALENDHI, J.

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