



TR.C.M.P(MD).No.411 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.411 of 2022
and C.M.P(MD).No.6675 of 2022

N.Gomathy

... Petitioner/Respondent-Wife

versus

M.Manoj Kumar

... Respondent/Petitioner-Husband

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.298 of 2022 on the file of the Family Court, Theni and transfer the same to the Family Court, Coimbatore.

For Petitioner	: Mr.M.Ajmal Khan
For Respondent	: Mr.P.M.Vishnuvarthanan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.298 of 2022 from the file of the Family Court, Theni to the Family Court, Coimbatore.



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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 26.10.2020, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.298 of 2022 before the Family Court, Theni, seeking divorce. Since the petitioner/wife is living along with her parents at Coimbatore, she finds it difficult to travel from her native place to Theni. Therefore, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.298 of 2022 from the file of the Family Court, Theni to the Family Court, Coimbatore.

3.The learned counsel appearing for the petitioner submits that the distance from the petitioner's native place to Theni is around 450 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 there is no one to accompany her, she finds it difficult to travel from Coimbatore to Theni for appearing before the Family Court, Theni, for each and every hearing.



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4.The learned counsel appearing for the respondent submitted that there is a possibility of settlement, if the matter is referred to the Mediation.

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.M.O.P.No.298 of 2022 on the file of the Family Court, Theni, is withdrawn and ordered to be transferred to the file of the Family Court, Coimbatore.

(ii)The learned Family Court, Theni is directed to transmit the entire case records to the Family Court, Coimbatore, forthwith. The learned Judge, Family Court, Coimbatore shall workout the possibility of any amicably settlement between the parties before proceeding with the trial.”

No costs. Consequently, connected miscellaneous petition is closed.

18.11.2022

Index : Yes / No

Internet: Yes / No

Rmk

To

1.The Family Court, Theni.

2.The Family Court, Coimbatore.

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B.PUGALENDHI, J.

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