



TR.C.M.P(MD).No.427 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.427 of 2022

and

C.M.P(MD).No.6987 of 2022

Saropraba

... Petitioner

versus

M.Nattudurai @ Sugu

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.215 of 2022 on the file of the Sub Court, Oddanchathiram and transfer the same to the Sub Court, Palani.

For Petitioner : Mr.N.Mohan

For Respondent : No appearance



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.215 of 2022 from the file of the Sub Court, Oddanchathiram, to the file of Sub Court, Palani.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 30.10.2010, as per Hindu Rites and Customs. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.215 of 2022 before the Family Court, Oddanchathiram, seeking divorce. Since there is no one to accompany her, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.215 of 2022 from the file of the Sub Court, Oddanchathiram, to the file of the Sub Court, Palani.



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3. The learned counsel appearing for the petitioner submits that the petitioner is living along with her aged mother in a remote village and she has to board two buses to reach the Sub Court, Palani. Further, the petitioner is not having sufficient means to travel and she depends upon her mother to meet out her day-to-day expenses. Since there is no one to accompany her, she finds it difficult to travel from her native village to Oddanchathiram for appearing before the Sub Court, Oddanchathiram, for each and every hearing.

4. The learned counsel for the petitioner further submits that when the petitioner went to attend the Court on 04.07.2022, at that time, she was assaulted by her husband and in-laws, for which, a complaint has been lodged and the same has been registered as Cr.No. 15 of 2022. Even thereafter, the respondent is threatening the petitioner with dire consequences. Therefore, she seeks for transfer of H.M.O.P.No.215 of 2022 from the file of the Sub Court, Oddanchathiram, to the file of Sub Court, Palani.



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

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



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judgments cited supra, is inclined to allow the present petition.

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7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.215 of 2022 pending on the file of the Sub Court, Oddanchathiram, is withdrawn and ordered to be transferred to the file of the Sub Court, Palani. The Sub Court, Oddanchathiram, is directed to transmit the entire case records to the Sub Court, Palani, forthwith. The learned Sub Judge, Sub Court, Palani, shall dispose of the case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes / No

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To

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Oddanchathiram.

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2. The Sub Court,
Palani.

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B.PUGALENDHI, J.

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