



Tr.C.M.P(MD)No.400 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.400 of 2022

and

C.M.P(MD) No.6550 of 2022

S.Claret Mary

... Petitioner

-Vs-

Kumar @ Xavier Ishidhor Anthony Kumar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.199 of 2021 on the file of the Family Court, Sivagangai and to transfer the same to the Family Court, Madurai.

For Petitioner : Mr.A.Amala

For Respondent : Mr.D.Venkatesh

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in I.D.O.P.No.199 of 2021 from the file of the Family Court, Sivagangai to the Family Court, Madurai.



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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 27.01.2002. Out of the wedlock, they have blessed with two children. Subsequently, due to some difference of opinion, they separated. The respondent filed I.D.O.P.No.199 of 2021, seeking divorce, before the Family Court, Sivagangai. Since the petitioner/wife is a resident of Madurai, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in I.D.O.P.No.199 of 2021, from the file of the Family Court, Sivagangai to the Family Court, Madurai.

3.The learned counsel appearing for the petitioner submits that the petitioner is having two children they are taken care of by the petitioner alone. He further submits that the petitioner could not travel from Madurai to Sivagangai as there is no one to accompany her.



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4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in I.D.O.P.No.199 of 2021 from the file of the Family Court, Sivagangai to the Family Court, Madurai.

5.The Hon'ble Apex Court in the case of ***Amitha Shah vs- Virendar Lal Shah***, reported in ***(2003)10 SCC 609***, has held that the convenience of the wife and more particularly the child must be taken into account while deciding the petition for transfer. Further, 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.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, this Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration that the



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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. The proceedings in I.D.O.P.No.199 of 2021, on the file of the Family Court, Sivagangai is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The learned Judge, Family Court, Sivagangai is directed to transmit the entire case records to the Family Court, Madurai forthwith and the learned Judge, Family Court, Madurai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2022

Index : Yes/No

Internet : Yes/No

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To

- 1.The Family Court, Sivagangai.
- 2.The Family Court, Madurai.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

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Order made in
Tr.C.M.P(MD)No.400 of 2022
and
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