



Tr.C.M.P(MD)No.412 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.412 of 2022

and

C.M.P(MD) No.6702 of 2022

Mounapriya

... Petitioner

-Vs-

M.Vinothkumar

Rep by his Power agent Murugappa

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw I.A.No.23 of 2022 in H.M.O.P.No. of 2022 from the file of the Sub Court, Thiruvarur and transfer the same to the Sub Court, Kulithalai.

For Petitioner : Mr.K.Arunraj

For Respondent : Mr.T.Sugadev

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of I.A.No.23 of 2022 in H.M.O.P.No. of 2022 from the file of the Sub Court, Thiruvarur to the Sub Court, Kulithalai.



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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 14.02.2022. Subsequently, due to some difference of opinion, they separated. The respondent filed I.A.No.23 of 2022 in unnumbered H.M.O.P.No. of 2022, for divorce, before the Sub Court, Thiruvarur. Since the petitioner/wife is a resident of Trichy, she filed this present Transfer Civil Miscellaneous Petition to transfer I.A.No. 23 of 2022 in unnumbered H.M.O.P.No. Of 2022, from the file of the Sub Court, Thiruvarur to the Sub Court, Kulithalai.

3.The learned counsel appearing for the petitioner submits that the petitioner has just delivered a baby on 17.11.2022. Moreover, the distance between Thiruvarur and Kulithalai is 400 kms and hence she finds it very difficult to travel such a long distance as there is no one to accompany her. He further submits that the respondent is at abroad and filed the petition through his power agent.



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4.The learned counsel appearing on behalf of the respondent is not having any objection for transfer of the proceedings in I.A.No.23 of 2022 in H.M.O.P.No. of 2022 from the file of the Sub Court, Thiruvavarur to the Sub Court, Kulithalai.

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.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



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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.A.No.23 of 2022 in unnumbered H.M.O.P.No. of 2022, on the file of the Sub Court, Thiruvarur is withdrawn and ordered to be transferred to the file of the Sub Court, Kulithalai. The learned Judge, Sub Court, Thiruvarur is directed to transmit the entire case records to the Sub Court, Kulithalai, forthwith and the learned Judge, Sub Court, Kulithalai, who in turn shall number and dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

16.12.2022

Index : Yes/No

Internet : Yes/No

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To
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- 1.The Sub Court, Thiruvarur.
- 2.The Sub Court, Kulithalai.
- 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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