



Tr.C.M.P(MD)No.448 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.448 of 2022

and

C.M.P(MD) No.7293 of 2022

M.Pandian

... Petitioner

-Vs-

P.Muthumari

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.597 of 2021 on the file of the Family Court, Madurai and to transfer the same to Sub Court, Thirumangalam to try along with HMOP No.135 of 2021.

For Petitioner : Mr.M.S.Parthiban

For Respondent : Mr.R.Pandidurai

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in H.M.O.P.No.597 of 2021 from the file of the Family Court, Madurai to the Sub Court, Thirumangalam.



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2.The learned counsel appearing for the petitioner/husband submits that the marriage between the petitioner and the respondent was solemnized on 20.08.2010. Out of the wedlock, they have blessed with two children. Subsequently, due to some misunderstanding they separated. The petitioner filed H.M.O.P.No.135 of 2021 before the Subordinate Court, Thirumangalam for the relief of divorce. The respondent wife filed H.M.O.P.No.597 of 2021 before the Family Court, Madurai for the relief of Restitution of Conjugal Rights. Since the petitioner/husband is working in Indian Army and also now stationed at Himachal Pradesh, he filed the above application for transfer of the proceedings in H.M.O.P.No.597 of 2021 from the file of the Family Court, Madurai to the Sub Court, Thirumangalam.

3.The learned counsel further submits that the respondent knowing that the petitioner has filed an application for divorce and also after having received notice in the divorce application has purposefully filed the application in H.M.O.P.No.



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597 of 2021, before the Family Court, Madurai to harass the petitioner. Since the petitioner is now serving as Military Engineering Service, he could not get leave frequently to appear before the Family Court, Madurai as presence of the parties is necessary before the Family Court. He further submits that the petitioner is paying 1/3rd of his salary to the respondent wife as monthly maintenance and hence, she will not find it difficult to appear before the Sub Court, Thirumangalam. Moreover, it is also not mandatory to appear before the Sub Court.

4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in H.M.O.P.No.597 of 2021 from the file of the Family Court, Madurai to the Sub Court, Thirumangalam as the respondent is a resident of Madurai.

5.This Court considered the submissions of the learned counsel on either side.



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6.It is an admitted fact that the petitioner is serving in Indian Military at Himachal Pradesh and he is paying 1/3rd of his salary to the respondent wife as monthly maintenance. To substantiate the same, the petitioner has also produced the relevant documents.

7.In view of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.597 of 2021, on the file of the Family Court, Madurai is withdrawn and ordered to be transferred to the file of the Sub Court, Thirumangalam. The learned Judge, Family Court, Madurai is directed to transmit the entire case records to the Sub Court, Thirumangalam forthwith and the learned Subordinate Judge, Thirumangalam, 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, Madurai.
 - 2.The Sub Court, Thirumangalam.
 - 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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