



TR.C.M.P(MD).No.430 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.430 of 2022

and

C.M.P(MD).No.7054 of 2022

S.Alli Malarvizhi

... Petitioner

versus

M.Ramar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.90 of 2022 on the file of the Subordinate Court, Thirumangalam, Madurai District and transfer the same to the Subordinate Court, Sankarankovil, Tenkasi District.

For Petitioner : Mr.A.Robinson

For Respondent : Mr.G.Thiruvarut Selvan



TR.C.M.P(MD).No.430 of 2022

ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.90 of 2022 from the file of the Subordinate Court, Thirumangalam, Madurai District, to the file of the Subordinate Court, Sankarankovil, Tenkasi District.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 08.11.2009, as per Hindu Rites and Customs and out of the wedlock, they are blessed with a female child. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.90 of 2022 before the Sub Court, Thirumangalam, seeking divorce. Now, the petitioner and her child are living along with her aged parents at Sankarankovil. Since she alone has to take care of her child and there is no one to accompany her, she finds it difficult to travel from Sankarankovil to Thirumangalam. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in



TR.C.M.P(MD).No.430 of 2022

H.M.O.P.No.90 of 2022 from the file of the Sub Court, Thirumangalam, to the file of the Sub Court, Sankarankovil.

3. The learned counsel appearing for the petitioner submits that the distance between Sankarankovil and Thirumangalam is around 100kms. Now, the petitioner and her child are living along with her aged parents at Sankarankovil. Further, 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 Sankarankovil to Thirumangalam, for appearing before the Sub Court, Thirumangalam, for each and every hearing.

4. Heard the learned counsel appearing for the respondent.



TR.C.M.P(MD).No.430 of 2022

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

7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.90 of 2022 pending on the file of the Sub Court, Thirumangalam, Madurai District, is withdrawn



TR.C.M.P(MD).No.430 of 2022

and ordered to be transferred to the file of the Sub Court, Sankarankovil. The Sub Court, Thirumangalam, Madurai District, is directed to transmit the entire case records to the Sub Court, Sankarankovil, forthwith. The learned Sub Judge, Sankarankovil, shall dispose of the case 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 Sub Court,
Thirumangalam,
Madurai District.
2. The Sub Court,
Sankarankovil.



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TR.C.M.P(MD).No.430 of 2022

B.PUGALENDHI, J.

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TR.C.M.P(MD).No.430 of 2022

04.11.2022