



TR.C.M.P(MD).No.449 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.449 of 2022

and

C.M.P(MD).No.7298 of 2022

Sudha

... Petitioner

versus

B.Malaisamy

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.228 of 2021 on the file of the Family Court, Sivagangai and transfer the same to the file of the Family Court, Trichy.

For Petitioner : Mr.M.Jerin Mathew

For Respondent : No appearance



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.228 of 2021 from the file of the Family Court, Sivagangai, to the file of the Family Court, Trichy.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 14.07.2013, 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.228 of 2021 before the Family Court, Sivagangai, seeking divorce. Now, the petitioner and her child are living along with her aged parents at Trichy. 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 Trichy to Sivagangai. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.228 of 2021 from the file of the Family Court, Sivagangai, to the file of the Family



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3. The learned counsel appearing for the petitioner submits that the distance between Trichy and Sivagangai is around 136kms. Now, the petitioner and her child are living along with her aged parents at Trichy. 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 Trichy to Sivangagai, for appearing before the Family Court, Sivagangai, for each and every hearing.

4. Though notice was served on the respondent and his name has 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*



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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.228 of 2021 pending on the file of the Family Court, Sivagangai, is withdrawn and ordered to be transferred to the file of the Family Court, Trichy. The Family Court, Sivagangai, is directed to transmit the entire case records to the Family



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Court, Trichy, forthwith. The learned Judge, Family Court, Trichy, 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 Family Court,
Sivagangai.
2. The Family Court,
Trichy.



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B.PUGALENDHI, J.

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