



WEB COPY

TR.C.M.P(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P (MD) .No.453 of 2022

and

C.M.P (MD) .No.7382 of 2022

Esai Selvi

... Petitioner/Respondent

v.

S.T.Karthikeyan

... Respondent/Petititioner

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C to withdraw the case in HMOP.No.347 of 2020 on the file of the Family Court, Madurai and transfer the same to the Family Court, Tirunelveli.

For Petitioner : Mr.D.Vijayaragavan

For Respondent : Mr.T.Antony Arulraj

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in HMOP.No.347 of 2020 from the file of the Family Court, Madurai to the file of the Family Court, Tirunelveli.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 17.09.2015 and out of the wedlock, they are having a female child. Due to some misunderstanding, now, they are living separately and the respondent has filed HMOP.No.347 of 2020 before the Family Court, Madurai, seeking divorce. The petitioner is residing at Tirunelveli in her parental house. Since the petitioner is not having sufficient means to travel and meet out her day-to-day expenses, she finds it difficult to travel from Tirunelveli to Madurai. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in HMOP.No.347 of 2020 from the file of the Family Court, Madurai, to the file of the Family Court, Tirunelveli.

3. The learned counsel appearing for the petitioner submits that the respondent is not even providing any maintenance to the petitioner. He further submits that the petitioner is not having sufficient means to travel and meet out her day-to-day expenses and there is no one to accompany her. Therefore, she finds it difficult to travel and appear before the Family Court, Madurai, for each and every hearing.



4. Learned Counsel for the respondent strongly objected for transferring the petition from the Court at Madurai to the Court at Tirunelveli.

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 so of the child must be taken into account while deciding the petition for transfer. 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 for the respondent strongly objected for the transfer, this Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into account that the convenience of wife is to be taken into consideration at the time of considering transfer petitions as held by the Hon'ble Apex 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 HMOP.No.347 of 2020 pending on the file of the Family Court, Madurai, is withdrawn and ordered to be transferred to the file of the Family Court, Tirunelveli. The learned Judge, Family Court, Madurai, is directed to transmit the entire case records to the Family Court, Tirunelveli, forthwith. The learned Judge, Family Court, Tirunelveli, shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/10/2022

Sub Assistant Registrar(CS)

gk

To

1. The Family Court,
Madurai.

2. The Family Court,
Tirunelveli.

+1 CC to M/s.S.VIDHYASAGAR, Advocate(SR-46862[F] dated 26/09/2022)

TR.C.M.P(MD) .No.453 of 2022

23.09.2022