



Tr.C.M.P(MD)No.476 of 2022

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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.476 of 2022

and

C.M.P(MD) No.7699 of 2022

Shiny Pushpa

... Petitioner

-Vs-

J.Saranjraj

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in I.D.O.P.No.1967 of 2021 on the file of the Family Court, Coimbatore and transfer to the Principal District Court, Tuticorin to try along with the case in I.D.O.P.No.107 of 2022 on the file of the Principal District Court, Tuticorin.

For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondent : Mr.R.Aravind Raj

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in I.D.O.P.No.1967 of 2021 from the file of the Family Court, Coimbatore to the Principal District Court, Tuticorin to try along with the case in I.D.O.P.No.107 of 2022.



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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 20.08.2021. Subsequently, due to some difference of opinion, they separated. The respondent filed I.D.O.P.No.1967 of 2021, seeking dissolution of marriage, before the Family Court, Coimbatore. The petitioner filed I.D.O.P.No.107 of 2022 for Restitution of Conjugal Rights before the Principal District Court, Tuticorin. Since the petitioner/wife is a resident of Tuticorin, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in I.D.O.P.No.1967 of 2021, from the file of the Family Court, Coimbatore to the Principal District Court, Tuticorin to try along with I.D.O.P.No.107 of 2022.

3.The learned counsel appearing for the petitioner submits that the distance between Coimbatore and the petitioner's native place Sathankulam is 380 kms and she is a sick person. Hence, she finds it very difficult to travel such a long distance as there is no one to accompany her.



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4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in I.D.O.P.No.199 of 2021 from the file of the Family Court, Coimbatore to the Principal District Court, Tuticorin.

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.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, this Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration that the



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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.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in I.D.O.P.No.1967 of 2021, on the file of the Family Court, Coimbatore is withdrawn and ordered to be transferred to the file of the Principal District Court, Tuticorin. The learned Judge, Family Court, Coimbatore is directed to transmit the entire case records to the Principal District Court, Tuticorin, forthwith and the learned Principal District Judge, Tuticorin, who in turn shall dispose of the same along with the case in I.D.O.P.No.107 of 2022 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**
- 1.The Family Court, Coimbatore.
 - 2.The Principal District Court, Tuticorin.
 - 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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Order made in
Tr.C.M.P(MD)No.476 of 2022
and
C.M.P(MD) No.7699 of 2022

16.12.2022