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TR.C.M.P(MD)No.480 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD)No.480 of 2022

and

C.M.P(MD)No.7718 of 2022

A.Joselin

... Petitioner

Vs

X.Antony Samuel

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw OP.No.31 of 2022 pending on the file of the Principal District Court, Ramanathapuram and transfer it to the Family Court, Tiruchirappalli.

For Petitioner : Ms.T.Banumathy

For Respondent : Mr.A.Arputharaj

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in OP.No.31 of 2022 from the Principal District Court, Ramanathapuram to Family Court, Tiruchirappalli.



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2.The learned Counsel for the petitioner submits that the marriage between the petitioner and the respondent was solemnized on 10.11.2021. While so, due to misunderstanding between them, the husband has filed a petition in OP.No.31 of 2022 seeking divorce before the Principal District Court, Ramanathapuram. Since the petitioner / wife is a resident of Tiruchirappalli District, she has filed this present Transfer Civil Miscellaneous Petition to transfer the above proceedings to Family Court, Tiruchirappalli, on the ground that she is residing with her parents, depending upon her aged parents and she finds it difficult to appear before Court by travelling such a long distance.

3.The learned Counsel for the respondent opposed this petition.



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4.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.

5.This Court being satisfied with the reasons stated in the affidavit filed in support of this petition and also 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.



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5. Accordingly, this transfer civil miscellaneous petition stands allowed with the following directions:

(i) The case in OP.No.31 of 2022 on the file of the Principal District Court, Ramanathapuram is transferred to the Family Court, Tiruchirappalli.

(ii) The learned Principal District Judge, Ramanathapuram is directed to send the above case records within a period of fifteen days from the date of receipt of a copy of this order to the learned Judge, Family Court, Tiruchirappalli, who in turn, on receipt of the case, shall dispose of it as expeditiously as possible. No costs. Consequently, connected miscellaneous petition stands closed.

09.12.2022

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- 1.The Principal District Judge,
Ramanathapuram.
- 2.The Judge,
Family Court,
Tiruchirappalli.



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B. PUGALENDHI , J.

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