



TR.C.M.P(MD).No.466 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.466 of 2022

and

C.M.P(MD).No.7582 of 2022

Shanmuga Priya

... Petitioner

versus

C.Ayyanar @ Mohan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.161 of 2022 on the file of the Sub Court, Kovilpatti, Thoothukudi District and transfer the same to the Sub Court, Virudhunagar, Virudhunagar District.

For Petitioner : Mr.M.Jothi Basu

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.161 of 2022 from the file of the Sub Court, Kovilpatti, Thoothukudi District, to the file of the Sub Court, Virudhunagar, Virudhunagar District.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 01.12.2019, as per Hindu Rites and Customs and out of the wedlock, a female child was born to them on 12.09.2021. Due to some misunderstanding, now, they are living separately. According to the petitioner, she was subjected to cruelty by the respondent and his family members and she was driven out from the matrimonial home. Thereafter, the respondent has filed H.M.O.P.No.161 of 2022 before the Sub Court, Kovilpatti, for restitution of conjugal rights. Now, the petitioner and her child are living along with her aged parents at Virudhunagar. Since she alone has to take care of her child and there is



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no one to accompany her, she finds it difficult to travel from Virudhunagar to Kovilpatti. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.161 of 2022 from the file of the Sub Court, Kovilpatti, Thoothukudi District to the file of the Sub Court, Virudhunagar.

3. The learned counsel appearing for the petitioner submits that the distance between Virudhunagar and Kovilpatti is around 50kms. Now, the petitioner and her child are living along with her aged parents at Virudhunagar. 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 Virudhunagar to Kovilpatti, for appearing before the Sub Court, Kovilpatti, 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



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him either in person or through a counsel.

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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.



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7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.161 of 2022 pending on the file of the Sub Court, Kovilpatti, is withdrawn and ordered to be transferred to the file of the Sub Court, Virudhunagar. The Sub Court, Kovilpatti, is directed to transmit the entire case records to the Sub Court, Virudhunagar, forthwith. The learned Sub Judge, Virudhunagar, 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,
Kovilpatti,
Thoothukudi District.

2. The Sub Court,
Virudhunagar.



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B.PUGALENDHI, J.

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