



Tr.C.M.P(MD)No.517 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.517 of 2022

and

C.M.P(MD) No.8096 of 2022

M.Nirmala

... Petitioner

-Vs-

S.Mareswaran

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.89 of 2022, on the file of the Sub Court, Sivakasi and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.A.Balaji

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in H.M.O.P.No.89 of 2022, from the file of the Sub Court, Sivakasi to the Family Court, Madurai.



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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 03.06.2013. Out of the wedlock, they have blessed with two children. Subsequently, due to some difference of opinion, they separated. The respondent filed H.M.O.P.No.89 of 2022, for the relief of restitution of conjugal rights before the Sub Court, Sivakasi. Since the petitioner/wife is a resident of Madurai, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.89 of 2022 from the file of the Sub Court, Sivakasi to the Family Court, Madurai.

3.The learned counsel appearing for the petitioner submits that the petitioner is having two children and it is very difficult for her to travel from Madurai to Sivakasi to attend the proceedings and also there is no one to accompany her.

4.The learned counsel appearing for the respondent is not having any objection for transfer of the proceedings.



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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. 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.

7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in



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H.M.O.P.No.89 of 2022, on the file of the Sub Court, Sivakasi is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The learned Subordinate Judge, Sivakasi is directed to transmit the entire case records to the Family Court, Madurai forthwith and the learned Judge, Family Court, Madurai, who in turn shall dispose of the same 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 Sub Court, Sivakasi.
- 2.The Family Court, Madurai.
- 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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Tr.C.M.P(MD)No.517 of 2022
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16.12.2022