



TR.CMP(MD)No.661 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.CMP(MD)No.661 of 2022
and
CMP(MD)No.10557 of 2022

Shyamala ... Petitioner

Vs

Karumanikandan ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw HMOP.No.1 of 2020 pending before the Subordinate Judge, Pazhani, Camp Court at Kodaikanal and to transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.V.A.Dhana Aravindha Balaji

For Respondent : Mr.I.Sam Jeyam

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.1 of 2020 from Sub Court, Pazhani, Camp Court at Kodaikanal to Family Court, Madurai.



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2.The marriage between the petitioner and the respondent was solemnized on 08.06.2014. Due to misunderstanding between them, the respondent has filed a petition in HMOP.No.1 of 2020 before the learned Sub Judge, Pazhani, Camp Court at Kodaikanal seeking divorce, which is sought to be transferred to the Family Court, Madurai by the petitioner on the ground that she is residing in Madurai along with her aged mother, she is having a child of tender age and she finds it difficult to appear before the Court at Kodaikanal.

3.The learned Counsel for the petitioner submits that the petitioner is dependant of her aged mother, she is having a child of five years old and the respondent has filed the above petition only to harass the petitioner.

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



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

(i) The case in HMOP.No.1 of 2020 on the file of the Sub Judge, Pazhani, Camp Court at Kodaikanal is transferred to the Family Court, Madurai.

(ii) The learned Sub Judge, Pazhani, Camp Court at Kodaikanal 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, Madurai, 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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To

WEB COPY

1.The Judge,
Family Court,
Madurai.

2.The Sub Judge,
Pazhani.



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B. PUGALENDHI , J.

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TR.CMP (MD) No. 661 of 2022

09.12.2022