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TR.CMP(MD)No.532 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.532 of 2022
and
C.M.P(MD)No.8246 of 2022

P.Kaleeshwari

... Petitioner

Vs

R.Balamurali

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw HMOP.No.310 of 2022 on the file of the Subordinate Court, Poonamallee and transfer the same to the Family Court, Madurai.

For Petitioner : Ms.K.Shanmugapriya

For Respondent : Mr.C.Susikumar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.310 of 2022 from Subordinate Court, Poonamallee to Family Court, Madurai.



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2.The learned Counsel for the petitioner submits that the marriage between the petitioner and the respondent was solemnized on 12.09.2018. While so, due to misunderstanding between them, the husband has filed a petition in HMOP.No.310 of 2022 seeking divorce before the Subordinate Court, Poonamallee. Since the petitioner / wife is a resident of Madurai District, she has filed this present Transfer Civil Miscellaneous Petition to transfer the above proceedings to Family Court, Madurai, on the ground that she is not having sufficient means and she is depending upon her mother and therefore, she finds it difficult to appear before Court by travelling such a long distance.

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

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



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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.

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

(i)The case in HMOP.No.310 of 2022 on the file of the Subordinate Court, Poonamallee is transferred to the Family Court, Madurai.



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(ii)The learned Sub Judge, Poonamallee is

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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

- 1.The Judge,
Family Court,
Madurai.
- 2.The Subordinate Judge,
Poonamallee.



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B. PUGALENDHI , J.

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