



Tr.C.M.P(MD)No.537 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.537 of 2021

and

C.M.P(MD) No.9796 of 2021

G.Saranya

... Petitioner

-Vs-

Manikandan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to transfer H.M.O.P.No.165 of 2021, under Section 13(1) (ia) of Hindu Marriage Act, 1955 from the file of the Sub Court, Uthamapalayam to the file of the Sub Court, Periakulam to try the same.

For Petitioner : Mr.Raja Karthikeyan
For Respondent : Mr.J.Yogeshwaran

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.165 of 2021 from the file of the Sub Court, Uthamapalayam to the Sub Court, Periakulam.



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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 09.11.2018, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent filed H.M.O.P.No.165 of 2021, seeking divorce, before the Subordinate Court, Uthamapalayam. Since the petitioner/wife is a resident of Periyakulam, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.165 of 2021 from the file of the Subordinate Court, Uthamapalayam to the Sub Court, Periakulam.

3.The learned counsel appearing for the petitioner submits that the distance between Uthamapalayam and Periyakulam is around 62 kms and the petitioner is not having any means to travel to Uthamapalayam and also there is no one to accompany her.

4.The learned counsel appearing for the respondent objects for transfer of the proceedings in H.M.O.P.No.165 of 2021 from the file of the Sub Court, Uthamapalayam to the Sub Court, Periakulam. He



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further submits that the petitioner filed petition under Section 125 of Cr.P.C seeking maintenance in MC.No.18 of 2021 before the Judicial Magistrate Court, Periyakulam.

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.



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7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.165 of 2021 on the file of the Subordinate Court, Uthamapalayam is withdrawn and ordered to be transferred to the file of the Sub Court, Periyakulam. The learned Subordinate Judge, Uthamapalayam is directed to transmit the entire case records to the Sub Court, Periyakulam forthwith and the learned Subordinate Judge, Periyakulam, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

06.07.2022

Index : Yes/No
Internet : Yes/No
vrn

To

- 1.The Subordinate Court, Uthamapalayam.
- 2.The Subordinate Court, Periyakulam.
- 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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Order made in
Tr.C.M.P(MD)No.537 of 2021

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