



TR.CMP (MD) No.554 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.554 of 2022
and
CMP (MD) No.8780 of 2022

J.Esther Devanesam ... Petitioner
Vs

C.S.Thatchanamoorthy @ David ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in IDOP.No.922 of 2022 from the file of the Family Court, Madurai and to transfer the same to the file of the Principal Family Court, Chennai.

For Petitioner : Mr.L.Shaji Chellan

For Respondent : Mr.R.Venkateswaran

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in IDOP.No.922 of 2022 from Family Court, Madurai to Family Court, Chennai.



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2.The marriage between the petitioner and the respondent was solemnized on 19.01.2018. While so, due to misunderstanding between them, the husband has filed a petition in IDOP.No.922 of 2022 seeking divorce before the Family Court Madurai, which is now sought to be transferred to the Family Court, Chennai, by the petitioner on the ground that the petitioner is residing in Chennai and she is having a child of tender age and moreover, the respondent is also working in Chennai, however, he has filed this petition at Madurai only with an intention to harass the petitioner.

3.The learned Counsel for the petitioner submits that the petitioner is residing in Chennai and herself and her daughters are dependent of her father, who is a pensioner. Further the respondent is employed in Chennai and only to harass the petitioner, he has filed the said IDOP before the Court at Madurai.



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4.The learned Counsel for the respondent admitted that the respondent is working in Chennai and he has no serious objection for allowing this petition.

5.Heard the learned Counsel either side and perused the materials.

6.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.

7.This Court being satisfied with the reasons stated in the affidavit filed in support of this



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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.

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

(i) The case in IDOP.No.922 of 2022 on the file of the Family Court, Madurai is transferred to file of the Principal Judge, Family Court, Chennai;

(ii) The learned Judge, Family Court, Madurai 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 Principal Judge, Family Court, Chennai, who in turn, on receipt of the case, shall allot it to any of the Family Court at Chennai, which shall dispose of the case as



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expeditiously as possible. No costs.

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Consequently, connected miscellaneous petition stands closed.

09.12.2022

dsk

To

- 1.The Judge,
Family Court,
Madurai.
- 2.The Principal Judge,
Family Court,
Chennai.



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B.PUGALENDHI, J.

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