



TR.C.M.P(MD).No.565 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.565 of 2022

and

C.M.P(MD).No.9044 of 2022

Divya Sri

... Petitioner

versus

Mareeskannan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.88 of 2022 on the file of the Sub Court, Sattur, Virudhunagar District and transfer the same to the Sub Court, Devakottai, Sivagangai District.

For Petitioner : Mr.S.Sathyachidambarm

For Respondent : Mr.M.Prabhu



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.88 of 2022 from the file of Sub Court, Sattur, Virudhunagar, to the file of Sub Court, Devakottai, Sivagangai

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 02.05.2016, as per Hindu Rites and Customs and out of the wedlock, they are blessed with a female child. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.88 of 2022 before the Sub Court, Sattur, Virudhunagar District, seeking divorce. Now, the petitioner and her child are living along with her old-aged parents at Karaikudi. Since the petitioner alone has to take care of her 4-year-old child and her aged parents, she finds it difficult to travel from Karaikudi to Sattur. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in



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H.M.O.P.No.88 of 2022 from the file of the Sub Court, Sattur, Virudhunagar District, to the file of the Sub Court, Devakottai, Sivagangai District.

3. The learned counsel appearing for the petitioner submits that the distance between Karaikudi and Sattur is around 165 kms. He further submits that the petitioner is not having sufficient means to travel and she depends upon her parents to meet out her day-to-day expenses. Since she alone has to take care of her 4-year-old child, who is studying at Karaikudi and her aged parents and there is no one to accompany her, she finds it difficult to travel from Karaikudi to Sattur for appearing before the Sub Court, Sattur, for each and every hearing. The petitioner is also facing life threat at the hands of the respondent.

4. Heard the learned counsel appearing for the respondent.



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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, by 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. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.88 of 2022 pending on the file of the Sub Court, Sattur, Virudhunagar District, is withdrawn and



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ordered to be transferred to the file of the Sub Court, Devakottai, Sivagangai. The Sub Court, Sattur, Virudhunagar, is directed to transmit the entire case records to the Sub Court, Devakottai, Sivagangai District forthwith. The learned Sub Judge, Sub Court, Devakottai, Sivagangai District, shall dispose of the case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2022

Index : Yes / No
Internet: Yes / No
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To

1. The Sub Court,
Sattur,
Virudhunagar.
2. The Sub Court,
Devakottai,
Sivagangai.



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B.PUGALENDHI, J.

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