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TR.CMP(MD)No.559 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.559 of 2022  
and  
CMP(MD)No.8907 of 2022

M.Saranya ... Petitioner

Vs

M.Bagath Singh ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case on the file of the Sub Court, Thuraiyur in HMOP.No.84 of 2022 and transfer the same to the Family Court, Trichy.

For Petitioner : Mr.T.J.Ebenezer Charles

For Respondent : Mr.T.A.Punithan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.84 of 2022 from Sub Court, Thuraiyur to Family Court, Trichy.



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2.The marriage between the petitioner and the respondent was solemnized on 21.06.2021. Due to misunderstanding between them, the respondent has filed a petition in HMOP.No.84 of 2022 before the Sub Court, Thuraiyur seeking divorce, which is sought to be transferred to the Family Court, Trichy by the petitioner on the ground that she is residing in Trichy and depending upon her father, she is having a child of tender age and she finds it difficult to appear before the Court at Thuraiyur.

3.The learned Counsel for the petitioner submits that the petitioner is dependant of father and she is not having any means to take care of herself, she is also having a child of tender age and therefore, this petition be allowed.

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.84 of 2022 on the file of the Sub Court, Thuraiyur is transferred to the Family Court, Trichy.

(ii) The learned Sub Judge, Thuraiyur 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, Trichy, 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,  
Trichy.
2. The Sub Judge,  
Thuraiyur.



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B. PUGALENDHI , J.

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