



TR.CMP(MD)No.560 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.560 of 2022

and

CMP(MD)No.8904 of 2022

Hemalatha

... Petitioner

Vs

Selvam

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the HMOP.No.984 of 2022 on the file of the Family Court, Madurai and transfer the same to the Family Court, Theni.

For Petitioner : Mr.D.Rathinavelpandian

For Respondent : Mr.S.Vikram

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.984 of 2022 from Family Court, Madurai to Family Court, Theni.



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2.The marriage between the petitioner and the respondent was solemnized on 08.12.2019. Due to misunderstanding between them, the respondent has filed a petition in HMOP.No.984 of 2022 before the Family Court, Madurai for the relief of conjugal rights, which is sought to be transferred to the Family Court, Theni by the petitioner on the ground that she is residing in Bodinayakanur and depending upon her aged parents, who are coolie workers, she is having a child of tender age and she finds it difficult to appear before the Court at Madurai since no one is there to accompany her.

3.The learned Counsel for the petitioner submits that the petitioner is dependant of her aged parents 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.984 of 2022 on the file of the Family Court, Madurai is transferred to the Family Court, Theni.

(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 Judge, Family Court, Theni, 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 Judge,
Family Court,
Theni.

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B. PUGALENDHI , J.

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