



TR.CMP(MD)No.577 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.577 of 2022

and

CMP(MD)No.9205 of 2022

G.Nandhini

... Petitioner

Vs

B.R.Hariharan

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw and transfer HMOP.No.523 of 2022 pending on the file of the Family Court, Pondicherry to the file of the Sub Court, Ambasamudram.

For Petitioner : Mr.A.Shabanal

For Respondent : Mr.Kirbakaran

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.523 of 2022 from Family Court, Pudhucherry to Sub Court, Ambasamudram.



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2.The marriage between the petitioner and the respondent was solemnized on 27.08.2021. Due to misunderstanding between them, the respondent has filed a petition in HMOP.No.523 of 2022 before the Family Court, Puducherry, seeking divorce, which is sought to be transferred to the Sub Court, Ambasamudram by the petitioner on the ground that she is residing in Kadayam, Tirunelveli District, from where Puducherry is around 500 Kms and no one is there to accompany her to the Court at Puducherry.

3.The learned Counsel for the petitioner submits that the petitioners parents are having several health issues and the petitioner is taking care of them and therefore, she finds it difficult to appear before the Court at Puducherry.

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.523 of 2022 on the file of the Family Court, Puducherry is transferred to the Sub Court, Ambasamudram.

(ii) The learned Judge, Family Court, Puducherry 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 Sub Judge, Ambasamudram, 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,
Puducherry.
2. The Sub Judge,
Ambasamudram.



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B. PUGALENDHI , J.

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