



TR.CMP(MD)No.581 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.581 of 2022
and
CMP(MD)No.9307 of 2022

V.Vensila ... Petitioner

Vs

Vasanthakumar ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in HMOP.No.64 of 2022 on the file of the Sub Court, Mudukulathur and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.K.R.Manimaran

For Respondent : Mr.R.Santhanam

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.64 of 2022 from Subordinate Court, Mudukulathur to Family Court, Madurai.



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2.The marriage between the petitioner and the respondent was solemnized on 16.05.2019. While so, the husband has filed a petition in HMOP.No.64 of 2022 seeking restitution of conjugal rights before the Subordinate Court, Mudukulathur, which is now sought to be transferred to the Family Court, Madurai, by the petitioner on the ground that she is not having sufficient means and she is depending upon her aged parents and her minor son is under treatment. She has also filed a petition in MC.No.139 of 2022 before the Family Court, Madurai seeking maintenance.

3.The learned Counsel for the petitioner submits that the petitioner has filed a petition in MC.No.139 of 2022 before the Family Court at Madurai and thereafter only the respondent has filed this petition at Mudukulathur seeking restitution of conjugal rights in order to harass this petitioner. The petitioner is dependent of her aged parents. Her minor son is also having certain health issues and he is under treatment.



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4.The learned Counsel for the respondent submits that the respondent is working as a Teacher at Rajakothamangalam, Thiruthuraipoondi taluk, Tiruvarur district and he has filed the petition for restitution of conjugal rights only before the Sub Court, Paramakudi and the appearance of the parties are not all required and therefore, there is no necessity to transfer the case.

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

6.The petitioner has filed a petition seeking maintenance before the Family Court at Madurai and the respondent, who is working in a Government Middle School at Rajakothamangalam, Thiruvarur district, has filed the petition before the Sub Court, Mudukulathur seeking restitution of conjugal rights. 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



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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 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 HMOP.No.64 of 2022 on the file of the Subordinate Court, Mudukulathur is transferred to the Family Court, Madurai



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(ii) The learned Sub Judge, Mudukulathur is

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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, Madurai, 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 Subordinate Judge,
Mudukulathur.



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B. PUGALENDHI , J.

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