



Tr.C.M.P(MD)No.575 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.575 of 2022

and

C.M.P(MD) No.9197 of 2022

Swetha

... Petitioner

-Vs-

S.Vivek

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1230 of 2022 on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Principal Sub Court, Kumbakonam to try along with H.M.O.P.No.227 of 2022, which is pending before the Principal Sub Court, Kumbakonam.

For Petitioner : M/s.Maria Vinola

For Respondent : Mr.N.Madhava Govindam



Tr.C.M.P(MD)No.575 of 2022

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the proceedings in H.M.O.P.No.1230 of 2022 from the file of the Additional Family Court, Coimbatore to the Principal Sub Court, Kumbakonam to try along with H.M.O.P.No.227 of 2022.

3.The learned counsel appearing for the petitioner submits that she is facing threat at the hands of the respondent and his family members. The learned counsel further submits that if this petition is not allowed, the petitioner has to travel a long way from Kumbakonam to Coimbatore.

4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in H.M.O.P.No.1230 of 2022 from the file of the Additional Family Court, Coimbatore to the Principal Sub Court, Kumbakonam

5.The Hon'ble Apex Court in the case of *Amitha Shah vs- Virendar Lal Shah*, reported in *(2003)10 SCC 609*, has held that the convenience of the wife and more particularly the child must be



Tr.C.M.P(MD)No.575 of 2022

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taken into account while deciding the petition for transfer. Further, 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.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, 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.

7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.1230 of 2022 on the file of the Additional Family Court, Coimbatore is withdrawn and ordered to be transferred to the



Tr.C.M.P(MD)No.575 of 2022

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file of the Principal Sub Court, Kumbakonam. The learned Additional Family Judge, Coimbatore is directed to transmit the entire case records to the Principal Sub Court, Kumbakonam forthwith and the learned Principal Subordinate Judge, Kumbakonam, who in turn shall dispose of the same along with H.M.O.P.No.227 of 2022 pending on its file, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2022

Index : Yes/No

Internet : Yes/No

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To

- 1.The Additional Family Court, Coimbatore.
- 2.The Principal Sub Court, Kumbakonam.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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Tr.C.M.P(MD)No.575 of 2022

B.PUGALENDHI, J.

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Order made in
Tr.C.M.P(MD)No.575 of 2022
and
C.M.P(MD) No.9197 of 2022

11.11.2022