



TR.C.M.P(MD).No.587 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.587 of 2022

and

C.M.P(MD).No.9430 of 2022

Sharmila

... Petitioner

versus

Visagan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the petition filed by the respondent in H.M.O.P.No. 207 of 2022 on the file of the Sub Court, Uthamapalayam, Theni District and transfer the same to the Principal Sub Court, Dindigul.

For Petitioner : Mr.P.Shanmuga Raja

For Respondent : Mr.J.Bharathan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.207 of 2022 from the file of Sub Court,



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Uthamapalayam, Theni District, to the file of Principal Sub Court,
Dindigul.

2. The petitioner herein is the wife and the respondent herein is the husband. The marriage between them was solemnized on 29.11.2015, as per Hindu Rites and Customs and out of the wedlock, they are blessed with a male child. Due to some misunderstanding, now, both are living separately. Thereafter, the respondent has filed H.M.O.P.No.207 of 2022 before the Sub Court, Uthamapalayam, for divorce. Now, the petitioner and his son are living along with her aged parents at Dindigul. Since there is no one to accompany her, she finds it difficult to travel from Dindigul to Uthamapalayam. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.207 of 2022 from the file of Sub Court, Uthamapalayam, Theni District, to the file of Principal Sub Court, Dindigul.



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3. The learned counsel appearing for the petitioner submits that the distance between Dindigul and Uthamapalayam is around 105 kms. Now, the petitioner and her child are living along with her aged parents at Dindigul. Since she alone has to take care of her child and her aged parents and there is no one to accompany her, she finds it difficult to travel to appear before the Court at Uthamapalayam. Therefore, he prays for allowing this petition.

4. The learned counsel appearing for the respondent submits that the petitioner and the respondent are Engineering Graduates and initially, both were working at Chennai and thereafter, they were living at Uthamapalayam. When the petitioner/wife expressed her intention to continue her study in Germany, the respondent, by considering the future of their child, opposed for the same, due to which, a difference of opinion arose between them and thereafter, the petitioner along with her child left the matrimonial home and is now living along with her parents even without informing the respondent/husband. Now, the



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petitioner is pursuing her study in Germany. Considering the conduct of the petitioner, the respondent has filed a divorce petition in H.M.O.P.No.207 of 2022 before the Sub Court, Uthamapalayam. Since the petitioner is now studying in Germany, it will not make any difference for her to contest the case either at Uthamapalayam or Dindigul.

6. No doubt, in these types of transfer applications, the convenience of the wife and children has to be taken into consideration. However, according to the respondent/husband, the petitioner/wife is studying in Germany and it will not make any difference for her to contest the case either at Uthamapalayam or Dindigul.

7. Considering the same, this Court is of the view that instead of transferring the case to the Principal Sub Court, Dindigul, it would be appropriate to transfer the proceedings in H.M.O.P.No.207 of 2022 to the file of Family Court, Theni.



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8. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.207 of 2020 pending on the file of the Sub Court, Uthamapalayam, is withdrawn and ordered to be transferred to the file of the Family Court, Theni. The Sub Court, Uthamapalayam, is directed to transmit the entire case records to the Family Court, Theni, forthwith. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2022

Index : Yes / No

Internet: Yes / No

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To

1. The Family Court,
Theni.

2. The Sub Court,
Uthamapalayam,
Theni District

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B.PUGALENDHI, J.

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