



TR.CMP (MD) No. 620 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. 620 of 2022
and
CMP (MD) No. 9921 of 2022

Mohana Sundari ... Petitioner
Vs

Muthaiya ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case in HMOP.No.164 of 2022 from the file of the Sub Court, Thirumangalam, Madurai district and transfer the same to the file of the Sub Court, Karur.

For Petitioner : Mr.M.Benazir Begum
For Respondent : Mr.S.Muniyandi

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.164 of 2022 from Sub Court, Thirumangalam to Sub Court, Karur.



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2.The marriage between the petitioner and the respondent was solemnized on 06.09.2004. The respondent has filed a petition before the Sub Court, Thirumangalam, seeking divorce in HMOP.No.164 of 2022, which is sought to be transferred to the Sub Court, Karur by the petitioner on the ground that she is working in Karur and her daughter is studying 12th standard.

3.The learned Counsel for the petitioner submits that the petitioner and the respondent are Teachers and the respondent is working in Aravakuruchi, Karur district, however, he has filed the above HMOP before the Court at Thirumangalam, only with an intention to harass the petitioner.

4.The learned Counsel for the respondent has raised serious objection for allowing 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. Though the petitioner has sought to transfer the above HMOP to Sub Court, Karur, this Court transfers the case to the Family Court, Karur.



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7. Accordingly, this transfer civil miscellaneous petition stands allowed with the following directions:

(i) The case in HMOP.No.164 of 2022 on the file of the Sub Court, Thirumangalam is transferred to Family Court, Karur.

(ii) The learned Sub Judge, Thirumangalam 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, Karur, 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

WEB COPY

- 1.The Judge,
Family Court,
Karur.**
- 2.The Sub Judge,
Thirumangalam.**



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B. PUGALENDHI, J.

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