



TR.CMP(MD)No.654 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.654 of 2022

and

CMP(MD)No.10420 of 2022

S.Ida

... Petitioner

Vs

T.Abel

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw and transfer the case in OP.No.4173 of 2022 pending on the file of the VI Principal Judge, Family Court at Chennai to the Family Court, Kanyakumari at Nagercoil.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mrs.Ragaventhree

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in OP.No.4173 of 2022 from Family Court at Chennai to Family Court, Kanyakumari at Nagercoil.



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2.The marriage between the petitioner and the respondent was solemnized on 27.05.2002. The respondent has filed a petition in OP.No.4173 of 2022 before the Family Court, Chennai seeking restitution of conjugal rights, which is sought to be transferred to the Family Court, Kanyakumari by the petitioner on the ground that she is residing in Kanyakumari and she finds it difficult to appear before the Court at Chennai, which is nearly 700KMs from Kanyakumari.

3.The learned Counsel for the petitioner the petitioner is working at Keezhkulam in Kanyakumari district and the above OP has been filed by the respondent at Chennai only with an intention to harass the petitioner.

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 OP.No.4173 of 2022 on the file of the VI Additional Principal Judge, Family Court, Chennai is transferred to Family Court, Kanyakumari at Nagercoil;

(ii) The learned VI Principal Judge, Family Court, Chennai 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, Kanyakumari, 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

dsk



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To

WEB COPY

- 1.The VI Additional Principal Judge,
Family Court,
Chennai.
- 2.The Judge,
Family Court,
Kanyakumari @ Nagercoil.



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B. PUGALENDHI , J.

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TR.CMP (MD) No. 654 of 2022

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