



Tr.C.M.P(MD)No.644 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.644 of 2022

and

C.M.P(MD) No.10223 of 2022

Adaikala Jaganya

... Petitioner

-Vs-

N.S.Dilipan Jose

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in D.O.P.No.1382 of 2022, on the file of the Family Court, Coimbatore and to transfer the same to any other competent Court at Thanjavur, more particularly to the Family Court, Thanjavur.

For Petitioner : Mr.J.Sankara Pandian

For Respondent : Mr.N.Jayanthi

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in D.O.P.No.1382 of 2022, from the file of the Family Court, Coimbatore to the Family Court, Thanjavur.



Tr.C.M.P(MD)No.644 of 2022

WEB COPY

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 10.11.2019. Out of the wedlock, they have blessed with a male child on 12.12.2021. Subsequently, due to some difference of opinion, they separated. The respondent filed D.O.P.No. 1382 of 2022, for Restitution of conjugal rights, before the Family Court, Coimbatore. Since the petitioner/wife is a resident of Thanjavur, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in D.O.P.No.1382 of 2022, from the file of the Family Court, Coimbatore to the Family Court, Thanjavur.

3.The learned counsel appearing for the petitioner submits that the distance between Coimbatore and Thanjavur is 350 kms and hence she finds it very difficult to travel such a long distance as there is no one to accompany her. Also, she is having a small child.

4.The learned counsel appearing for the respondent objects for transfer of the proceedings in D.O.P.No.1382 of 2022,



Tr.C.M.P(MD)No.644 of 2022

from the file of the Family Court, Coimbatore to the Family Court, Thanjavur.

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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 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



Tr.C.M.P(MD)No.644 of 2022

the judgments cited supra, is inclined to allow the present petition.

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7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in D.O.P.No. 1382 of 2022, on the file of the Family Court, Coimbatore is withdrawn and ordered to be transferred to the file of Family Court, Thanjavur. The learned Judge, Family Court, Coimbatore is directed to transmit the entire case records to the Family Court, Thanjavur forthwith and the learned Judge, Family Court, Thanjavur, who in turn shall dispose of the same along as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

16.12.2022

Index : Yes/No

Internet : Yes/No

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To

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



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Tr.C.M.P(MD)No.644 of 2022

B.PUGALENDHI, J.

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Order made in
Tr.C.M.P(MD)No.644 of 2022
and
C.M.P(MD) No.10223 of 2022

16.12.2022