



Tr.C.M.P(MD)No.640 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.640 of 2022

and

C.M.P(MD) No.10212 of 2022

N.Manjula

... Petitioner

-Vs-

J.Jeyaprakash

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in I.A.No.2 of 2022 in unregistered O.P.No. /2022 on the file of the Family Court, Theni and transfer the same to either Sub Court, Sankarankovil in Tenkasi District or to the Sub Court, Kovilpatti, Thoothukudi District.

For Petitioner : Mr.F.X.Eugene

For Respondent : Mr.N.Ranjith

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of I.A.No.2 of 2022 in unregistered O.P.No. /2022 on the file of the Family Court, Theni either to the Sub Court, Sankarankovil or to the Sub Court, Kovilpatti, Thoothukudi District.



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2.The petitioner is the wife and the respondent is the husband. Both are divorcees. Their marriage was solemnized on 10.06.2022. Subsequently, due to some difference of opinion, they separated. The respondent filed I.A.No.2 of 2022 in unregistered O.P.No. /2022, before the Family Court, Theni, seeking divorce. Since the petitioner/wife is a resident of Tuticorin, she filed this present Transfer Civil Miscellaneous Petition to transfer I.A.No.2 of 2022 in unregistered O.P.No. /2022 from the file of the Family Court, Theni to the Sub Court, Kovilpatti.

3.The learned counsel appearing for the petitioner submits that the respondent husband has filed the petition for divorce before the Family Court, Theni, though he is a resident of Trichy. The petitioner claims that she is having a small child and she has to take care of her child and also there is no one to accompany her.

4.The learned counsel appearing for the respondent submits that the respondent is working in a private company at Theni.



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Therefore, he filed the above application at Theni. He further submits that if the proceedings is transferred to Sub Court, Kovilpatti, it is very difficult for him to get leave for the appearance before the Court for each and every hearing.

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



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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 application in I.A.No.2 of 2022 in unregistered O.P.No. /2022 , on the file of the Family Court, Theni is withdrawn and ordered to be transferred to the file of the Sub Court, Kovilpatti. The learned Judge, Family Court, Theni is directed to transmit the entire case records to the Sub Court, Kovilpatti, forthwith and the learned Judge, Sub Court, Kovilpatti, who in turn shall number the application and dispose of the same 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

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- 1.The Family Court, Theni.
- 2.The Sub Court, Kovilpatti.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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B.PUGALENDHI, J.

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Order made in
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