



Tr.C.M.P(MD)No.68 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.68 of 2023

and

C.M.P(MD)No.1616 of 2023

Manisha @ Mahalakshmi

... Petitioner

Vs.

Harirenga

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Code of Civil Procedure, to withdraw H.M.O.P.No.360 of 2022, on the file of the Family Court, Tirunelveli and transfer the same to the Family Court, Trichy.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.B.Michael Sebastin

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the proceedings in H.M.O.P.No.360 of 2022 from the file of the Family Court, Tirunelveli to the Family Court, Trichy.



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2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.06.2019. Out of the wedlock, they are blessed with a female child on 07.06.2020. Subsequently, due to some difference of opinion, they have separated. The respondent has filed H.M.O.P.No.360 of 2022, seeking divorce, which is pending before the Family Court, Tirunelveli. Since the petitioner/wife is a resident of Trichy, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.360 of 2022 from the file of the Family Court, Tirunelveli to the Family Court, Trichy.

3.The learned counsel for the petitioner submits that the distance between Trichy and Tirunelveli is around 300 kms and the petitioner finds it very difficult to travel long distance to attend the court proceedings at Tirunelveli, as she has to take care of her minor child.



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4.The learned counsel for the respondent submits that there is a scope for resolving the dispute between the petitioner and the respondent through mediation.

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.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



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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 proceedings in H.M.O.P.No.360 of 2022, on the file of the Family Court, Tirunelveli is withdrawn and ordered to be transferred to the file of the Family Court, Trichy. The learned Judge, Family Court, Tirunelveli is directed to transmit the entire case records to the Family Court, Trichy forthwith. The learned Judge, Family Court, Trichy shall refer the parties for mediation, before disposal of H.M.O.P.No.360 of 2022. No costs. Consequently, connected miscellaneous petition is closed.

23.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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- 1.The Family Court, Tirunelveli.
- 2.The Family Court, Trichy
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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Order made in
Tr.C.M.P(MD)No.68 of 2023
and
C.M.P(MD)No.1616 of 2023

23.03.2023