



TR.C.M.P(MD).No.398 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.398 of 2022

and

C.M.P(MD).No.6488 of 2022

S.Chandiya

... Petitioner

versus

M.Saravana Ram

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 r/w. 151 of C.P.C. to withdraw the case in H.M.O.P.No.266 of 2022 from the file of the Additional Family Court, Coimbatore and transfer the same to the Family Court, Madurai, to be tried along with M.C.No.35 of 2022 pending on the file of the Family Court, Madurai.

For Petitioner : Mr.A.R.Kannappan

For Respondent : No appearance



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.266 of 2022 from the file of the Additional Family Court, Coimbatore, to the file of the Family Court, Madurai, to be tried along with M.C.No.35 of 2022.

2. The petitioner herein is the wife of the respondent. The marriage between them was solemnized on 24.05.2021. Due to some misunderstanding, now, they are living separately. Thereafter, she filed a petition for maintenance before the Family Court, Madurai, in M.C.No.35 of 2022. Subsequently, the respondent has also filed a petition in H.M.O.P.No.266 of 2022 before the Family Court, Coimbatore. Since the petitioner is now living along with her old aged parents at Madurai and there is no one to accompany her, she finds it difficult to travel from Madurai to Coimbatore. Therefore, she filed



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this Transfer Civil Miscellaneous Petition, seeking transfer of H.M.O.P.No.266 of 2022 from the file of the Additional Family Court, Coimbatore, to the file of the Family Court, Madurai, to be tried along with M.C.No.35 of 2022.

3. The learned counsel appearing for the petitioner submits that the petitioner is living along with her aged parents at Madurai. Further, the petitioner is not having sufficient means to travel and she depends upon her parents to meet out her day-to-day expenses. Since there is no one to accompany her, she finds it difficult to travel from Madurai to Coimbatore, for appearing before the Additional Family Court, Coimbatore, for each and every hearing.

4. Though notice was sent to the respondent and his name was also printed in the cause list, there is no representation for the respondent.



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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, by 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.

7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.266 of 2022 pending on the file of Additional Family Court, Coimbatore, is withdrawn and ordered



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to be transferred to the file of the Family Court, Madurai, to be tried along with M.C.No.35 of 2022. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2023

Index : Yes / No

Internet: Yes / No

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To

1. The Additional Family Court,
Coimbatore.
2. The Family Court,
Madurai.



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B.PUGALENDHI, J.

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