



TR.C.M.P.(MD) No.380 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

TR.C.M.P.(MD) No.380 of 2023

and

C.M.P(MD) No.8032 of 2023

Susila

... Petitioner

Vs.

V.Kannan

... Respondent

Prayer :- Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.44 of 2020 on the file of the Sub Court, Udumalaipettai and transfer the same to the Family Court, Theni.

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.K.Muralisankar

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.44 of 2020 on the file of the Sub Court, Udumalaipettai and transfer the same to the Family Court, Theni.



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2. The learned counsel for the petitioner would submit that the petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 29.06.2012 as per Hindu Rites and Customs. At the time of marriage, the parents of the petitioner gave 30 sovereigns of gold and a sum of Rs.75,000/- in cash for marriage expenses and also Rs.50,000/- for seethana articles. After the marriage, the respondent and his family members continuously harassed the petitioner. Thereafter, the respondent/husband filed a petition in H.M.O.P.No.44 of 2020 before the Sub Court, Udumalaipettai, for divorce. The petitioner is now residing at Govindanagaram, Theni District and she is entirely depending on her parents for day-to-day expenses. Further, the distance between Theni to Udumalaipettai is more than 170 Kms. It would be difficult for the petitioner to travel alone and she has to be accompanied by some one, which would result in additional expenditure and also cause great discomfort and inconvenience to her. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition.



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3..The learned counsel appearing for the respondent would vehemently objected to the transfer stating that the mother of the respondent is aged about 82 years and she is suffering from various illness. Therefore, the respondent finds it difficult to attend the hearing before the Family Court at Theni. He would further submit that he has life threat at Theni. Further, HMOP is only before the Sub Court, which did not require the presence of the parties for every hearing. He would contend that if the matter is transferred to Family Court, Theni, he has to appear for every hearing and he is the resident of Udumalaipettai.

4.I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and carefully perused the entire materials on record.

5. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. However, taking into consideration the submission of the respondent and also considering the convenience of both parties, instead



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of transferring the matter to Family Court, Theni, wherein the appearance of parties is necessary for every hearing, the case is transferred to Sub Court, Theni. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the petition in HMOP No.44 of 2020 on the file of the Sub Court, Udumalaipettai, is ordered to be withdrawn and transferred to the file of the Sub Court, Theni. The learned Subordinate Judge, Udumalaipettai, is directed to transmit the entire records pertaining to the cases in H.M.O.P.No.44 of 2020 to the transferee Court, within a week from the date of receipt of a copy of this order. Moreover, the petitioner is advised not to indulge any untoward activity which would affect the rights of the respondent. If so, the petitioner has to meet out serious consequences. No costs. Consequently, connected miscellaneous petition is closed.

25.09.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Subordinate Judge,
Udumalaipettai.
- 2.The Subordinate Judge, Theni.



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K.GOVINDARAJAN THILAKAVADI, J.

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