



Tr.C.M.P(MD)No.458 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.458 of 2022

and

C.M.P(MD) No.7428 of 2022

1.Suvetha

... Petitioner

-Vs-

J.Venkateshwaran

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.756 of 2022 from the Family Court, Madurai to the Additional Sub Court, Tirunelveli and to try along with the case in H.M.O.P.No.7 of 2022, on the file of the Additional Sub Court, Tirunelveli.

For Petitioner : Mr.M.S.S.Sheik Abdulh

For Respondent : Mr.G.Anto Prince

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in H.M.O.P.No.756 of 2022 from the Family Court, Madurai to the Additional Sub Court,



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Tirunelveli to try along with the case in H.M.O.P.No.7 of 2022, on the file of the Additional Sub Court, Tirunelveli.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 07.07.2021. Subsequently, due to some difference of opinion, they separated. The petitioner filed H.M.O.P.No.7 of 2022, seeking divorce, before the Additional Sub Court, Tirunelveli. The respondent filed H.M.O.P.No.756 of 2022, before the Family Court, Madurai for the relief of Restitution of conjugal rights. Since the petitioner/wife is a resident of Tirunelveli, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.756 of 2022 from the file of the Family Court, Madurai to the Additional Sub Court, Tirunelveli to try along with H.M.O.P.No.7 of 2022.

3.The learned counsel appearing for the petitioner submits that the distance between Tirunelveli and Madurai is around



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170 kms and the petitioner finds it very difficult to travel such a long distance to attend the court proceedings at Madurai as there is no one to accompany her.

4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in H.M.O.P.No.756 of 2022 from the file of the Family Court, Madurai to the Additional Sub Court, Tirunelveli.

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.



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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 the judgments cited supra, is inclined to dispose of the present petition, in the following terms.

- a) The proceedings in H.M.O.P.No.756 of 2022, on the file of the Family Court, Madurai is withdrawn and ordered to be transferred to the file of the Family Court, Tirunelveli.
- b) The learned Judge, Family Court, Madurai is directed to transmit the entire case records to the Family Court, Tirunelveli forthwith.
- c) The learned Judge, Family Court, Tirunelveli, who in turn shall dispose of the same as expeditiously as possible.



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7. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12.01.2023

Index : Yes/No
Internet : Yes/No
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To

1. The Family Court, Madurai.
2. The Family Court, Tirunelveli.
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
Tr.C.M.P(MD)No.458 of 2022
and
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12.01.2023