



TR.C.M.P(MD).No.500 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.500 of 2022

and

C.M.P(MD).No.7936 of 2022

M.Dhivyaprabha

... Petitioner

versus

B.Rajiv Kanna

... 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.822 of 2022 on the file of the Family Court, Madurai and transfer the same to the Sub Court, Paramakudi.

For Petitioner : Mr.Jameel Arasu
for M/s.G.Vishnuram

For Respondent : Mr.T.K.Gopalan



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.822 of 2022 from the file of the Family Court, Madurai, to the file of the Sub Court, Paramakudi.

2. The petitioner herein is the wife of the respondent. The marriage between them was solemnized on 11.03.2021. Due to some misunderstanding, now, they are living separately. Thereafter, she filed a petition for restitution of conjugal rights in H.M.O.P.No.67 of 2021 before the Sub Court, Paramakudi. The respondent has also filed a divorce petition in H.M.O.P.No.822 of 2022 before the Family Court, Madurai. Since the petitioner is now living along with her old aged parents at Paramakudi and there is no one to accompany her, she finds it difficult to travel from Paramakudi to Madurai. Therefore, she filed this Transfer Civil Miscellaneous Petition, seeking transfer of H.M.O.P.No.822 of 2022 from the file of the Family Court, Madurai, to the file of the Sub Court, Paramakudi.



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3. The learned counsel appearing for the petitioner submits that the petitioner is living along with her aged parents at Paramakudi. 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 Paramakudi to Madurai, for appearing before the Family Court, Madurai, for each and every hearing.

4. Heard the learned counsel appearing for the respondent.

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



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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. Since the Family Courts are established only for the purpose of dealing with the matrimonial issues, this Court is inclined to transfer H.M.O.P.No.822 of 2022 from the file of the Family Court, Madurai, to the file of the Family Court, Ramanathapuram.

8. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.822 of 2022 pending on the file of the Family Court, Madurai, is withdrawn and ordered to be transferred to the file of the Family Court, Ramanathapuram. The



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Family Court, Madurai, is directed to transmit the entire case records to the Family Court, Ramanathapuram, forthwith. The learned Judge, Family Court, Ramanathapuram, shall dispose of the case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2023

Index : Yes / No
Internet: Yes / No
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To

1. The Family Court,
Madurai.
2. The Family Court,
Ramanathapuram.



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B.PUGALENDHI, J.

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