



TR.C.M.P(MD).No.514 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.514 of 2022

and

C.M.P(MD).No.8090 of 2022

R.Shobana

... Petitioner

versus

B.J.Praveen Kumar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the petition in H.M.O.P.No.166 of 2022 on the file of the Sub Court, Thirumangalam and to transfer the same to the Sub Court, Periyakulam.

For Petitioner : Mr.R.Suriya Narayanan

For Respondent : Mr.G.Karuppasamy Pandian



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.166 of 2022 from the file of the Sub Court, Thirumangalam, to the file of the Sub Court, Periyakulam.

2. The petitioner herein is the wife of the respondent. The marriage between them was solemnized on 29.10.2020 and out of the wedlock, a male child was born to them on 06.06.2021. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed a divorce petition in H.M.O.P.No.166 of 2022 before the Sub Court, Thirumangalam. Since the petitioner and her child are living along with her old aged parents at Periyakulam and she alone has to take care of her child and there is no one to accompany her, she finds it difficult to travel from Periyakulam to Thirumangalam. Therefore, she filed this Transfer Civil Miscellaneous Petition, seeking



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transfer of H.M.O.P.No.166 of 2022 from the file of the Sub Court, Thirumangalam, to the file of the Sub Court, Periyakulam.

3. The learned counsel appearing for the petitioner submits that the petitioner and her child are living along with her aged parents at Periyakulam. 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 she alone has to take care of her child and there is no one to accompany her, she finds it difficult to travel from Periyakulam to Thirumangalam, for appearing before the Sub Court, Thirumangalam, 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*



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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 transfer H.M.O.P.No.166 of 2022 to the Sub Court, Theni, instead of Sub Court, Periyakulam.

8. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.166 of 2022 pending on the file of the Sub Court, Thirumangalam, is withdrawn and ordered to be transferred to the file of the Sub Court, Theni. The Sub Court, Thirumangalam, is directed to transmit the entire case records to the



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Sub Court, Theni, forthwith. The learned Sub Judge, Theni, 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 Sub Court,
Thirumangalam.
2. The Sub Court,
Theni.



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B.PUGALENDHI, J.

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