



Tr.C.M.P(MD)No.572 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2023

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.572 of 2022
and
C.M.P(MD) No.9154 of 2022

Deepti Amalia

... Petitioner

-Vs-

Antony Joseph Primeson

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the I.D.O.P.No.213 of 2022 pending on the file of the Family Court, Tirunelveli and transfer the same to the Family Court, Tambaram.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.K.S.Muthu

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in I.D.O.P.No.213 of 2022 from the file of the Family Court, Tirunelveli to the Family Court, Tambaram.



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2.The petitioner is the wife and the respondent is the husband.

The marriage between the petitioner and the respondent was solemnized on 02.09.2013. Subsequently, due to some difference of opinion, they separated. The respondent filed I.D.O.P.No.213 of 2022, before the Family Court, Tirunelveli, seeking a relief of divorce. Since the petitioner/wife is a resident of Tambaram, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in I.D.O.P.No. 213 of 2022 from the file of Family Court, Tirunelveli to the Family Court, Tambaram.

3.The learned counsel appearing for the petitioner submits that the petitioner is having a small child and she is depending upon her parents for her livelihood and it is very difficult for the petitioner to travel 650 kms for every hearing to attend the Court proceedings before the Family Court, Tirunelveli.

4.The learned counsel appearing for the respondent submits that the respondent is at Canada and he is contesting the case through his father as power agent and since his father is aged about 65 years old and



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he is also a heart patient, it is very difficult for him to travel upto Chennai.

5. The petitioner claims that she is not having any means and she is also having a child. The respondent is also contesting the case through his father as power agent. If it is difficult for the power agent to attend the Court proceedings, the respondent can change the power agent.

6.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.

7.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, this Court being



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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 allow the present petition.

8.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in I.D.O.P.No.213 of 2022 on the file of the Family Court, Tirunelveli, is withdrawn and ordered to be transferred to the file of the Family Court, Tambaram. The learned Judge, Family Court, Tirunelveli, is directed to transmit the entire case records to the Family Court, Tambaram forthwith and the learned Judge, Family Court, Tambaram, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

27.01.2023

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

- 1.The Family Court, Tirunelveli.
2. The Family Court, Thambaram.



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Order made in
Tr.C.M.P(MD)No.572 of 2022
and
C.M.P(MD) No.9154 of 2022

27.01.2023



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This Transfer Civil Miscellaneous Petition is listed today under the caption for 'being mentioned'.

2.The learned counsel appearing for the petitioner has produced an affidavit filed by one Y.M.Rehana, a counsel for the petitioner at Chennai that she has wrongly instructed the counsel on record that there is a Family Court at Tambaram. Believing the words of the instructing counsel, the Transfer Civil Miscellaneous petition has been filed for transfer of the case in I.D.O.P.No.213 of 2022 from the file of the Family Court, Tirunelveli to the Family Court, Tambaram. This Court, by order dated 27.01.2023 has passed an order without ascertaining the existence of the Family Court at Tambaram. It is reported that there is no Family Court at Tambaram and the Family Court is situated only at Chengalpat.

3.In view of the above, Registry is directed to issue a



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fresh order copy by substituting "the Family Court, Chengalpat" in the place of "the Family Court, Tambaram" in the order passed by this Court in Tr.CMP(MD)No.572 of 2022, dated 27.01.2023 and issue the corrected order copy to the parties forthwith.

27.06.2023

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