



Tr.C.M.P(MD)No.585 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.585 of 2022

and

C.M.P(MD) No.9370 of 2022

Shanmuga Priya

... Petitioner

-Vs-

Dr.K.Murugesan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.2774 of 2018 on the file of the V Additional Family Court, Chennai and to transfer the same to the file of the Sub Court, Devakottai, for trial.

For Petitioner : Mr.D.Venkatesh

For Respondent : M/s.P.Geetha Baskar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the proceedings in H.M.O.P.No.2774 of 2018 from the file of the V Additional Family Court, Chennai, to the Sub Court, Devakottai.



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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 24.03.2008, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, they separated. The respondent filed H.M.O.P.No.2774 of 2018, before the V Additional Family Court, Chennai, seeking divorce. Since the petitioner/wife is a resident of Karaikudi, Sivagangai District, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.2774 of 2018 from the file of the V Additional Family Court, Chennai, to the Sub Court, Devakottai.

3.The learned counsel appearing for the petitioner submits that the distance between Karaikudi and Chennai is around 420 kms and it is very difficult for the petitioner to travel such a long distance for appearing before the V Additional Family Court, Chennai, for each and every hearing.

4. Though notice was served on the respondent and his name has been printed in the cause list, there is no representation on behalf of him



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either in person or through his counsel.

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.

6.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 allow the present petition.

7.Though the relief is sought for in this petition to transfer H.M.O.P.No.2774 of 2018 from the file of V Additional Family Court,



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Chennai, to the file of Sub Court, Devakottai and 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.2774 of 2018 from the file of the V Additional Family Court, Chennai, to the file of the Family Court, Sivaganai.

8.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.2774 of 2018 on the file of the V Additional Family Court, Chennai and ordered to be transferred to the file of the Family Court, Sivagangai. The learned Judge, V Additional Family Court, Chennai, is directed to transmit the entire case records to the Family Court, Sivagangai, forthwith and the learned Judge, Family Court, Sivagangai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

27.01.2023

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

- 1.The V Additional Family Court, Chennai.
2. The Judge, Family Court, Sivagangai.



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B.PUGALENDHI, J.

cp

Order made in
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27.01.2023