



Tr.C.M.P(MD)No.603 of 2022

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.603 of 2022

and

C.M.P(MD) No.9714 of 2022

S.Shanmuga Priya

... Petitioner

-Vs-

P.Nirupan Basu

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.23 of 2022 on the file of the Sub Court, Uththamapalayam, Theni District and transfer the same to the Family Court, Sivagangai.

For Petitioner : M/s.Tamil Selvi

For Respondent : No appearance



Tr.C.M.P(MD)No.603 of 2022

ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.23 of 2022 from the file of the Sub Court, Uththamapalayam, Theni District, to the Family Court, Sivagangai.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 07.02.2018, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent has filed H.M.O.P.No.23 of 2022 before the Sub Court, Uththamapalayam, Theni District, seeking divorce. Since the petitioner/wife is a resident of Maanamadurai, Sivagangai District, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.23 of 2022 from the file of the Sub Court, Uththamapalayam, Theni District to the Family Court, Sivagangai.

3.The learned counsel appearing for the petitioner submits that the petitioner is having four years old child and the distance between



Tr.C.M.P(MD)No.603 of 2022

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Manamadurai and Uththamapalayam is around 160 kms and it very difficult to travel such a long distance to attend the Court proceedings at Uththamapalayam, as there is no one to accompany her.

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 either in person or through his counsel.

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 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



Tr.C.M.P(MD)No.603 of 2022

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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.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.23 of 2022 on the file of the Sub Court, Uththamapalayam, Theni District, is withdrawn and ordered to be transferred to the file of the Family Court, Sivagangai. The learned Subordinate Judge, Uththamapalayam, Theni District, 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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Tr.C.M.P(MD)No.603 of 2022

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- 1.The Sub Court, Uththamapalayam, Theni District.
2. The Family Court, Sivagangai.



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Tr.C.M.P(MD)No.603 of 2022

B.PUGALENDHI, J.

cp

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