



TR.C.M.P(MD).No.653 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.653 of 2022

and

C.M.P(MD).No.10416 of 2022

A.R.Hamsini

... Petitioner

versus

P.Prashant Krishna

Rep. by his father (power of attorney)

K.Panneerselvam

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. to withdraw the case in H.M.O.P.No.3712 of 2022 on the file of the IV Additional Family Court, Chennai and transfer the same to the Family Court, Madurai.

For Petitioner : Mr.G.Aravinthan

For Respondent : Mr.S.Vijayakumar



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of H.M.O.P.No.3712 of 2022 from the file of the IV Additional Family Court, Chennai, to the file of the Family Court, Madurai.

2. The petitioner herein is the wife of the respondent. The marriage between them was solemnized on 13.04.2017. Due to some misunderstanding, they are living separately. Thereafter, the respondent has filed a divorce petition in H.M.O.P.No.3712 of 2022 before the IV Additional Family Court, Chennai. Since the petitioner is now living along with her old aged parents at Madurai and there is no one to accompany her, she finds it difficult to travel from Madurai to Chennai. Therefore, she filed this Transfer Civil Miscellaneous Petition, seeking transfer of H.M.O.P.No. 3712 of 2022 from the file of the IV Additional Family Court, Chennai, to the file of the Family Court, Madurai.



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3. The learned counsel appearing for the petitioner submits that the petitioner is a Dental Surgeon and she is also running a clinic in Madurai. The learned counsel further submits that the respondent is working at USA and he is also contesting the divorce proceedings through his father as a power agent. For attending the court proceedings at Chennai, the petitioner has to close down her clinic at least for two days. Therefore, she seeks for transfer of H.M.O.P.No. 3712 of 2022 from the file of the IV Additional Family Court, Chennai, to the file of the Family Court, Madurai.

4. The learned counsel appearing for the respondent submits that the respondent's father is an aged person and if the divorce proceedings is transferred to the Family Court, Madurai, it would be very difficult for him to attend the Court at Madurai. Therefore, he seeks indulgence of this Court.



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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, 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 and also considering the fact that the respondent is contesting the divorce proceedings through his father, is inclined to allow the present petition as prayed for.



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7. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No. 3712 of 2022 pending on the file of IV Additional Family Court, Chennai, is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The IV Additional Family Court, Chennai, is directed to transmit the entire case records to the Family Court, Madurai, forthwith. The learned Judge, Family Court, Madurai, 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 IV Additional Family Court,
Chennai.
2. The Family Court,
Madurai.



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B.PUGALENDHI, J.

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