



Tr.C.M.P(MD)No.672 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.672 of 2022
and
C.M.P(MD)No.10755 of 2022

P.Lavanya

... Petitioner

Vs.

Arivuselvam

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Code of Civil Procedure, to withdraw H.M.O.P.No.127 of 2022 from the file of the learned Principal Sub Court, Pudukottai and transfer the same to the Family Court, Madurai.

For Petitioner : Mr.T.Balarathinakumar

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the proceedings in H.M.O.P.No.127 of 2022 from the file



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of the Principal Sub Court, Pudukottai and transfer the same to the Family Court, Madurai.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 17.05.2019. Out of the wedlock, they are blessed with twin female children. Subsequently, due to some difference of opinion, they have separated. The respondent has filed H.M.O.P.No. 127 of 2022, for the relief of Restitution of conjugal rights, which is pending before the Principal Subordinate Court, Pudukottai. Since the petitioner/wife is a resident of Madurai, she has filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.127 of 2022 from the file of the Principal Sub Court, Pudukottai to the Family Court, Madurai.

3.The learned counsel for the petitioner submits that the distance between Madurai and Pudukottai is around 125 kms and the petitioner finds it very difficult to travel long distance to attend the



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court proceedings at Pudukottai, as there is no one to accompany her.

4. There is no representation for the respondent, despite notice being served on the respondent.

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



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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.127 of 2022, on the file of the Principal Sub Court, Pudukottai is withdrawn and ordered to be transferred to the file of the Family Court, Madurai. The learned Judge, Principal Sub Court, Pudukottai is directed to transmit the entire case records to the Family Court, Madurai forthwith and the learned Judge, Family Court, Madurai, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

23.03.2023

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

- 1.The Principal Sub Court, Pudukottai.
- 2.The Family Court, Madurai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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and
C.M.P(MD)No.10755 of 2022

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