



Tr.C.M.P(MD)No.657 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **23.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.657 of 2022

and

C.M.P(MD)No.10445 of 2022

Kiruthika

... Petitioner

Vs.

K.Veerapathiran

... 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.95 of 2022 from the file of the Sub Court, Thiruvarur to the Additional Sub Court, Thanjavur.

For Petitioner : Mr.P.Edin Brough

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the proceedings in H.M.O.P.No.95 of 2022 from the file of the Sub Court, Thiruvarur to the Additional Sub Court, Thanjavur.



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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 03.03.2021. Subsequently, due to some difference of opinion, they separated. The respondent filed H.M.O.P.No.95 of 2022, seeking restitution of conjugal rights, which is pending before the Sub Court, Thiruvarur. Since the petitioner/wife is a resident of Thanjavur, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.95 of 2022 from the file of the Sub Court, Thiruvarur to the Additional Sub Court, Thanjavur.

3.The learned counsel appearing for the petitioner submits that now the petitioner is residing along with her age old parents and the petitioner finds it very difficult to travel from Thanjavur to attend the court proceedings at Thiruvarur.

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



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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 of the convenience of the petitioner, which 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.95 of 2022, on the file of the Sub Court, Thiruvavur is



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withdrawn and ordered to be transferred to the file of the Additional Sub Court, Thanjavur. The learned Judge, Sub Court, Thiruvarur is directed to transmit the entire case records to the Sub Court, Thanjavur forthwith and the learned Subordinate Judge, Thanjavur, who in turn shall dispose of the same as expeditiously as possible, preferably within a period of 15 months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

23.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vrn

To

- 1.The Sub Court, Thiruvarur
- 2.The Additional Sub Court, Thanjavur.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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