



Tr.C.M.P(MD)No.673 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.673 of 2022
and
C.M.P(MD)No.10780 of 2022

Anitha

... Petitioner

Vs.

Krishnaraj

... 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.83 of 2022, on the file of the Principal Subordinate Court, Tenkasi and to transfer the same to the file of the Subordinate Court, Tirumangalam to be tried jointly with the petition for restitution of conjugal rights in H.M.O.P.No.110 of 2022.

For Petitioner : Mr.R.Raja

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the proceedings in H.M.O.P.No.83 of 2022 from the file



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of the Principal Subordinate Court, Tenkasi to the Subordinate Court, Tirumangalam to be tried along with H.M.O.P.No.110 of 2022 pending on its file.

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 08.05.2019. Out of the wedlock, they are blessed with a female child on 25.08.2020. Subsequently, due to some difference of opinion, they have separated. The respondent has filed H.M.O.P.No.83 of 2022, seeking divorce, which is pending before the Principal Subordinate Court, Tenkasi. The petitioner filed H.M.O.P.No.110 of 2022 for the relief of Restitution of conjugal rights before the Subordinate Court, Thirumangalam. Since the petitioner/wife is a resident of Thirumangalam, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.83 of 2022 from the file of the Principal Subordinate Court, Tenkasi to the Subordinate Court, Tirumangalam to be tried along with H.M.O.P.No.110 of 2022.



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3.The learned counsel for the petitioner submits that the distance between Madurai and Tenkasi is around 160 kms and the petitioner finds it very difficult to travel long distance to attend the court proceedings at Tenkasi, as she has to take care of her minor child.

4.It is reported that notice sent to the respondent was received by some other person and there is no representation for 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



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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.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.83 of 2022, on the file of the Principal Subordinate Court, Tenkasi is withdrawn and ordered to be transferred to the file of the Subordinate Court, Tirumangalam. The learned Judge, Principal Subordinate Court, Tenkasi is directed to transmit the entire case records to the Subordinate Court, Tirumangalam forthwith and the learned Subordinate Judge, Tirumangalam, who in turn shall dispose of the same along with H.M.O.P.No.110 of



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2022 pending on his file, as expeditiously as possible. No costs.

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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 Subordinate Court, Tenkasi.
- 3.The Subordinate Court, Tirumangalam.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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Order made in
Tr.C.M.P(MD)No.673 of 2022
and
C.M.P(MD)No.10780 of 2022

23.03.2023