



Tr.C.M.P(MD)No.679 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.679 of 2022

and

C.M.P(MD)No.10866 of 2022

Ponsha

... Petitioner

Vs.

A.Joseph John Bisaar

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Code of Civil Procedure, to withdraw I.D.O.P.No.280 of 2021 from the file of Family Court, Thoothukudi and transfer the same to Family Court, Tirunelveli.

For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mr.S.Suresh Manickam

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the proceedings in I.D.O.P.No.280 of 2021 from the file of Family Court, Thoothukudi to the Family Court, Tirunelveli.



Tr.C.M.P(MD)No.679 of 2022

2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 23.12.2020. Subsequently, due to some difference of opinion, they have separated. The respondent filed I.D.O.P.No.280 of 2021, seeking divorce, which is pending before the Family Court, Tuticorin. Since the petitioner/wife is a resident of Tirunelveli, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in I.D.O.P.No.280 of 2021 from the file of the Family Court, Thoothukudi to the Family Court, Tirunelveli.

3.The learned counsel appearing for the petitioner submits that the distance between Tirunelveli and Thoothukudi is around 120 kms and the petitioner finds it difficult to travel such a long distance to attend the court proceedings at Thoothukudi as there is no one to accompany her.

4.The learned counsel appearing for the respondent objects for transfer of the proceedings.



Tr.C.M.P(MD)No.679 of 2022

WEB COPY

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 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



Tr.C.M.P(MD)No.679 of 2022

I.D.O.P.No.280 of 2021, on the file of the Family Court,

Thoothukudi is withdrawn and ordered to be transferred to the file of the Family Court, Tirunelveli. The learned Judge, Family Court, Thoothukudi is directed to transmit the entire case records to the Family Court, Tirunelveli, forthwith and the learned Judge, Family Court, Tirunelveli, 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 Family Court, Thoothukudi.
- 2.The Family Court, Tirunelveli.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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Tr.C.M.P(MD)No.679 of 2022

C.SARAVANAN ,J.

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