



TR.CMP(MD)No.721 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.CMP(MD)No.721 of 2022

and

C.M.P(MD)No.11438 of 2022

Geetha ... Petitioner

Vs

K.Senthilkumar ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw and transfer HMOP.No.109 of 2022 on the file of the Family Court, Trichy District for disposal of the same on merits and in accordance with law.

For Petitioner : Mr.M.Jerin Mathew

For Respondent : Mr.A.Prasanna Rajadurai

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.109 of 2022 from Family Court, Pudukottai to the Family Court, Trichy.



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2.The marriage between the petitioner and the respondent was solemnized on 28.05.2007.

There are differences of opinion between them. Therefore the husband has filed a petition in HMOP.No.109 of 2022 seeking restitution of conjugal rights before Family Court, Pudukottai. Since the petitioner / wife is a resident of Trichy district, she has filed this present Transfer Civil Miscellaneous Petition to transfer the above proceedings to Family Court, Trichy on the ground that she is depending upon her aged parents, she is having a minor child, no one is there to accompany her and therefore she finds it difficult to appear before Court at Pudukottai by travelling such a long distance. Moreover the petitioner has filed a case in MC.No.20 of 2022 before the Family Court, Trichy.

3.The learned Counsel for the respondent has raised objection to this petition that there is a threat to the respondent.



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4.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.

5.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. Though the learned Counsel for the respondent raised objection he has substantiated that there was any untoward incident.



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6.In the light of the above, this transfer civil miscellaneous petition stands allowed with the following directions:

(i)The case in HMOP No.109 of 2022 on the file of the Family Court, Pudukottai is transferred to the Family Court, Trichy;

(ii)The learned Judge, Family Court, Pudukottai is directed to send the above case records within a period of fifteen days from the date of receipt of a copy of this order to the learned Judge, Family Court, Trichy, who in turn, on receipt of the case, shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition stands closed.

06.01.2023

Index: Yes/No



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To

WEB COPY

1.The Judge,
Family Court,
Pudukottai.

2.The Judge,
Family Court,
Trichy.



WEB COPY



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B. PUGALENDHI , J.

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