



TR.C.M.P(MD).No.722 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.722 of 2022
and C.M.P(MD).No.11441 of 2022

Sharmilee

... Petitioner

versus

Vijaykumar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.292 of 2022 on the file of the Family Court, Dindigul and transfer the same to the file of the Sub Court, Kulithurai for trial.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.A.Chandrakumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in H.M.O.P.No.292 of 2022 from the file of the Family Court, Dindigul, to the file of the Sub Court, Kulithurai.



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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 30.10.2000, as per the Hindu Rites and Customs and out of the wedlock, they are blessed with three children. Due to some misunderstanding, now, they are living separately. Thereafter, the respondent has filed H.M.O.P.No.292 of 2022 before the Family Court, Dindigul, for restitution of conjugal rights. Now, the petitioner and her children are living along with her aged mother at Marthandam. Since the petitioner alone has to take care of her children and her aged mother, she finds it difficult to travel from Marthandam to Dindigul. Hence, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in H.M.O.P.No.292 of 2022 from the file of the Family Court, Dindigul, to the file of the Sub Court, Kulithurai.

3.The learned counsel appearing for the petitioner submits that the distance between Marthandam and Dindigul is around 316 kms. He



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further submits that she alone has to take care of her children and her aged mother and there is no one to accompany her and therefore, she finds it difficult to travel from Marthandam to Dindigul for appearing before the Family Court, Madurai, for each and every hearing.

4. Heard the learned counsel appearing for the respondent.

5. 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.



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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. Though the relief is sought for in this petition to transfer H.M.O.P.No.292 of 2022 from the file of Family Court, Dindigul, to the file of Sub Court, Kulithurai and since the Family Courts are established only for the purpose of dealing with the matrimonial issues, this Court is inclined to transfer H.M.O.P.No.292 of 2022 from the file of the Family Court, Dindigul, to the file of the Family Court, Nagercoil.

12. Accordingly, the Transfer Civil Miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.292 of 2022 pending on the



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file of the Family Court, Dindigul, is withdrawn and ordered to be transferred to the file of the Family Court, Nagercoil. The Family Court, Dindigul, is directed to transmit the entire case records to the Family Court, Nagercoil, forthwith. The learned Judge, Family Court, Nagercoil, shall dispose of the case as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

20.01.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Family Court,
Dindigul.
2. The Family Court,
Nagercoil.
3. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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