



TR.C.M.P(MD).No.735 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.735 of 2022

and

C.M.P(MD).No.11697 of 2022

R.Ruba

... Petitioner

v.

V.Muthaiya

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C to withdraw the case in HMOP.No.263 of 2022 on the file of the Sub Court, Kovilpatti and transfer the same to the Sub Court, Thuraiyur.

For Petitioner : Ms.J.Madhu

For Respondent : No representation



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ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in HMOP.No.263 of 2022 from the file of the Sub Court, Kovilpatti to the file of the Sub Court, Thuraiyur.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 27.05.2018 and out of the wedlock, they are having a male child. Due to some misunderstanding, now, they are living separately and the respondent has filed HMOP.No.263 of 2022 before the Sub Court, Kovilpatti, seeking divorce. The petitioner is residing at Trichy in her parental house. Since the petitioner is not having sufficient means to travel and meet out her day-to-day expenses, she finds it difficult to travel from Trichy to Kovilpatti. Therefore, she filed the present Transfer Civil Miscellaneous Petition to transfer the case in HMOP.No.263 of 2022 from the file of the Sub Court, Kovilpatti, to the file of the Sub Court, Thuraiyur.



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WEB COP 3. The learned counsel appearing for the petitioner submits that the respondent is not even providing any maintenance to the petitioner. He further submits that the petitioner is not having sufficient means to travel and meet out her day-to-day expenses and there is no one to accompany her. Therefore, she finds it difficult to travel and appear before the Sub Court, Kovilpatti, for each and every hearing.

4. There is no representation for the respondent / husband.

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 so of the child must be taken into account while deciding the petition for transfer. 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 account that the convenience of wife is to be taken into consideration at the time of considering transfer petitions as held by the Hon'ble Apex Court in the judgments cited supra, is inclined to allow the present petition by transferring the case to the file of Family Court, Trichy, instead of Sub Court, Thuraiyur.

7. In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in HMOP.No.263 of 2022 pending on the file of the Sub Court, Kovilpatti, is withdrawn and ordered to be transferred to the file of the Family Court, Trichy. The learned Judge, Sub Court, Kovilpatti, is directed to transmit the entire case records to the Family Court, Trichy, forthwith. The learned Judge, Family Court, Trichy, shall expedite the proceedings and shall endeavour to dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet: Yes / No
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20.01.2023



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To

1. The Family Court,
Trichy.
2. The Sub Court,
Kovilpatti.



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B.PUGALENDHI, J.

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