



Tr.C.M.P(MD)No.731 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Tr.C.M.P(MD)No.731 of 2022

and

C.M.P(MD) No.11619 of 2022

A.Prabavathi

... Petitioner

-Vs-

Arumuga Nainar @ Ramesh

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.118 of 2022 on the file of the Sub Court, Ambasamudram, Tirunelveli District and transfer the same to the Sub Court, Thiruchendur, Thoothukudi District.

For Petitioner : Mr.I.Pinaygash

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the proceedings in H.M.O.P.No.118 of 2022 from the file of the Sub Court, Ambasamudram, Tirunelveli District, to the Sub Court,



Tr.C.M.P(MD)No.731 of 2022

Thiruchendur, Thoothukudi District.

WEB COPY

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 14.06.2019, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, the respondent has filed H.M.O.P.No.118 of 2022 before the Sub Court, Ambasamudram, Tirunelveli District, seeking divorce. Since the petitioner/wife is a resident of Srivaikundam, Thoothukudi District, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.118 of 2022 from the file of the Sub Court, Ambasamudram, Tirunelveli District, to the Sub Court, Thiruchendur, Thoothukudi District.

3.The learned counsel appearing for the petitioner submits that the distance between Eral and Ambasamudram is around 80 kms and the petitioner is not having any means to travel such a long distance for appearing before the Sub Court, Ambasamudram, Tirunelveli District, for each and every hearing.



Tr.C.M.P(MD)No.731 of 2022

WEB COPY

4. Though notice was served on the respondent and his name has been printed in the cause list, there is no representation on behalf of him either in person or through his counsel.

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.

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.



Tr.C.M.P(MD)No.731 of 2022

WEB COPY

7.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.118 of 2022 on the file of the Sub Court, Ambasamudram, Tirunelveli District, is withdrawn and ordered to be transferred to the file of the Sub Court, Thiruchendur, Thoothukudi District. The learned Subordinate Judge, Ambasamudram, Tirunelveli District, is directed to transmit the entire case records to the Sub Court, Thiruchendur, Thoothukudi District, forthwith and the learned Subordinate Judge, Thiruchendur, Thoothukudi District, who in turn shall dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

27.01.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
cp

To

1.The Sub Court,
Ambasamudram,
Tirunelveli District.



Tr.C.M.P(MD)No.731 of 2022

WEB COPY
2. The Sub Court,
Thiruchendur,
Thoothukudi District.



WEB COPY



Tr.C.M.P(MD)No.731 of 2022

B.PUGALENDHI, J.

cp

Order made in
Tr.C.M.P(MD)No.731 of 2022
and
C.M.P(MD) No.11619 of 2022

27.01.2023