



TR.CMP(MD)No.742 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.742 of 2022

and

C.M.P(MD)No.11782 of 2022

R.Kavitha		... Petitioner
	Vs	
K.Vickraman		... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C, to withdraw the case on the file of the Principal District Court, Thanjavur District in HMOP No.32 of 2022 and transfer the same to the Family Court at Trichy.

For Petitioner : Mr.K.Karpagam

For Respondent : Mr.A.Arun Prasad

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking transfer of the case in HMOP.No.38 of 2022 from Principal District Court, Thanjavur to Family Court, Trichy.



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2.The marriage between the petitioner and the respondent was solemnized on 03.11.2019. There are differences of opinion between them. Therefore, the respondent has filed a petition in HMOP.No.32 of 2022 seeking divorce before the Principal District Court, Thanjavur. 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, no one is there to accompany her and therefore she finds it difficult to appear before Court at Thanjavur. Further the petitioner has also filed a petition in HMOP.No.336 of 2022 before the Family Court at Trichy seeking restitution of conjugal rights.

3.The learned Counsel for the petitioner submits that the petitioner is residing in Trichy District. She is not having sufficient means and she is depending upon her aged parents. Therefore, considering the status of the petitioner, this petition may be allowed.



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4.The learned Counsel for the respondent opposes this petition.

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 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.



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

(i)The case in HMOP No.32 of 2022 on the file Principal District Court, Thanjavur is transferred to Family Court, Trichy;

(ii)The learned Principal District Judge, Thanjavur 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 Principal District Judge,
Thanjavur
- 2.The Judge,
Family Court,
Trichy.



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B. PUGALENDHI , J.

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