



WEB COPY

TR.CMP(MD)Nos.774 and 776 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.CMP(MD)Nos.774 and 776 of 2022

and

C.M.P(MD)Nos.12486 and 12487 of 2022

Sulathana Parveen

... Petitioner

Vs

Syed Kasim

... Respondent

Transfer Civil Miscellaneous Petitions are filed under Section 24 of C.P.C, to withdraw GWOP.No.145 of 2022 of 2022 and OS.No.81 of 2022 on the file of the Family Court, Tiruchirappalli and transfer the same to the Family Court, Tiruppur.

For Petitioner : Mr.T.Vadivelan

For Respondent : Mr.P.Ganapathi Subramaniam

COMMON ORDER

These Transfer Civil Miscellaneous Petitions are filed seeking transfer of the cases in GWOP.No.145 of 2022 and OS.No.81 of 2022 from the Family Court, Tiruchirappalli to the Family Court, Tiruppur.

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2.The learned Counsel for the petitioner submits that the marriage between the petitioner and the respondent was solemnized on 30.11.2017 at Trichy and out of the wedlock, they are having a child. However, due to differences of opinion, they are living separately and the minor child is with the petitioner. The petitioner has filed a petition in OS.No.81 of 2022 for restitution of conjugal rights before the Family Court at Trichy and the respondent husband has filed a petition in GWOP.No.145 of 2022 seeking for the custody of the child before the Family Court, Trichy. According to the petitioner, pending the above cases, the petitioner has been transferred from Trichy to Tiruppur and therefore, it is difficult for her to attend the Court at Trichy with the minor child, whose studies are also affected. Therefore, the learned Counsel prayed that these petitions be allowed.

3.The learned Counsel for the respondent opposes these petitions.



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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 petitions.

6.In the light of the above, these transfer civil miscellaneous petitions stand allowed with the following directions:

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(i) The case in GWOP.No.145 of 2022 and OS.No.81 of 2022 on the file of the Family Court, Trichy is transferred to Family Court, Tiruppur;

(ii) The learned Judge, Family Court, Trichy 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, Tiruppur, who in turn, on receipt of the case, shall try it along with HMOP.No.108 of 2022 and dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition stands closed.

06.01.2023

Index: Yes/No

To

1. The Judge,
Family Court,
Trichy.
2. The Judge,
Family Court,
Tiruppur.

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