



Tr.C.M.P(MD)No.765 of 2022

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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.765 of 2022

and

C.M.P(MD) No.12349 of 2022

Akila

... Petitioner

-Vs-

Dheenadayalan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.266 of 2022 on the file of the Family Court, Dindigul and transfer the same to be tried along with the petition in H.M.O.P.No.371 of 2022 on the file of the Hon'ble III Additional Sub Court, Madurai.

For Petitioner : Mr.R.Saravanakumar

For Respondent : Mr.T.Selvan

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking



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transfer of the proceedings in H.M.O.P.No.266 of 2022 from the file of the Family Court, Dindigul, to the III Additional Sub Court, Madurai, to be tried along with the petition in H.M.O.P.No.371 of 2022.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 04.07.2019, as per the Hindu Rites and Customs. Subsequently, due to some difference of opinion, they separated. The respondent has filed H.M.O.P.No.266 of 2022 before the Family Court, Dindigul, seeking divorce. Since the petitioner/wife is a resident of T.Vadipatti, Madurai District, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.266 of 2022 from the file of the Family Court, Dindigul to the III Additional Sub Court, Madurai, to be tried along with the petition for restitution of conjugal right in H.M.O.P.No.371 of 2022 filed by the petitioner.

3.The learned counsel appearing for the petitioner submits that the petitioner is having two months old child and she is not having sufficient means to travel. Hence, the petitioner finds it difficult to travel from



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Madurai to Dindigul for appearing before the Family Court, Dindigul, for each and every hearing.

4.The learned counsel appearing for the respondent strongly objects for transfer of the proceedings in H.M.O.P.No.266 of 2022 from the file of Family Court, Dindigul to the III Additional Sub Court, Madurai.

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.Though the learned counsel appearing for the respondent raised certain objections for transfer of the proceedings, this Court being



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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.In the light of the above, this transfer civil miscellaneous petition stands allowed. The proceedings in H.M.O.P.No.266 of 2022 on the file of the Family Court, Dindigul, is withdrawn and ordered to be transferred to the file of III Additional Sub Court, Madurai, to be tried along with H.M.O.P.No.371 of 2022. The learned Judge, Family Court, Dindigul, is directed to transmit the entire case records to the III Additional Sub Court, Madurai, forthwith and the learned III Additional Subordinate Judge, Madurai, 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
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To

- 1.The Family Court,
Dindigul.
- 2.The III Additional Sub Court,
Madurai.



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B.PUGALENDHI, J.

cp

Order made in
Tr.C.M.P(MD)No.765 of 2022
and
C.M.P(MD) No.12349 of 2022

27.01.2023