



Tr.C.M.P(MD)No.10 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.10 of 2023

and

C.M.P(MD)No.204 of 2023

K.Muneeshwari

... Petitioner

Vs.

S.Vijayarajan

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Code of Civil Procedure, to withdraw H.M.O.P.No.120 of 2021 from the file of the Family Court, Srivilliputhur, Virudhunagar District and to transfer the same to the Sub Court, Thoothukudi.

For Petitioner : Mr.I.Pinayagash

For Respondent : No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed for transfer of the proceedings in H.M.O.P.No.120 of 2021 from the file of the Family Court, Srivilliputhur, Virudhunagar District to the Sub Court, Thoothukudi.



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2.The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 06.09.2018. Subsequently, due to some difference of opinion, they have separated. The respondent filed H.M.O.P.No.120 of 2021, seeking divorce, which is pending before the Family Court, Srivilliputhur. The petitioner has filed H.M.O.P.No.30 of 2020 before the Sub Court, Thoothukudi for restitution of conjugal rights. Since the petitioner/wife is a resident of Thoothukudi, she filed this present Transfer Civil Miscellaneous Petition to transfer the proceedings in H.M.O.P.No.120 of 2021 from the file of the Family Court, Srivilliputhur, Virudhunagar District to the Sub Court, Thoothukudi.

3.The learned counsel for the petitioner submits that now the petitioner is residing along with her age old parents and the petitioner finds it difficult to travel from Thoothukudi to attend the court proceedings at Virudhunagar.



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4. There is no representation for the respondent, despite notice being served on the respondent.

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 particularly the child must be taken into account while deciding the petition for transfer. Further, 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. The Court is satisfied with the reasons stated in the affidavit filed in support of this petition and also taking into consideration of the convenience of the petitioner, which 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. The proceedings in H.M.O.P.No.120 of 2021, on the file of the Family Court, Srivilliputhur, Virudhunagar is withdrawn and ordered to be transferred to the file of the Sub Court, Thoothukudi. The learned Judge, Family Court, Srivilliputhur is directed to transmit the entire case records to the Sub Court, Thoothukudi forthwith and the learned Subordinate Judge, Thoothukudi, shall in turn dispose of the same as expeditiously as possible, preferably within a period of 15 months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

23.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vrn



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- 1.The Family Court, Srivilliputhur,
Virudhunagar District.
- 2.The Sub Court, Thoothukudi.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN ,J.

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Order made in
Tr.C.M.P(MD)No.10 of 2023
and
C.M.P(MD)No.204 of 2023

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