



Tr. C.M.P. No. 43 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr. C.M.P. No. 43 of 2022

and

C.M.P. No. 1022 of 2022

B. Bhuvaneshwari

... Petitioner

Vs.

A. Radhakrishnan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the H.M.O.P.No.1232 of 2021 pending on the file of Additional Family Court, Coimbatore and to transfer the same to the Subordinate Court, Pollachi.

For Petitioner : Mr. N. Ponraj

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to transfer H.M.O.P.No.1232 of 2021 pending on the file of Additional Family Court, Coimbatore to the Subordinate Court, Pollachi.



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2. Heard the learned counsel for the petitioner and perused the records.

3. Inspite of service of notice, there is no representation for the respondent.

4. The petitioner is the wife and the respondent is the husband.

5. The respondent herein has filed a petition against the petitioner in H.M.O.P.No.1232 of 2021 on the file of Additional Family Court, Coimbatore seeking for divorce under Section 31(1)(i-a) of Hindu Marriage Act, 1955. The marriage between the petitioner and respondent took place on 28.08.1998 as per Hindu rights and customs. Due to their wedlock, they blessed with first male child on 17.12.1999 and the second male child on 29.07.2022 and they lived happily till 2015. Thereafter, some dispute arose between them and the petitioner was thrown out from the matrimonial home. Thereafter, the respondent filed H.M.O.P.No.1232 of 2021 before the Additional Family Court, Coimbatore.



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6. Learned counsel for the petitioner submits that the petitioner is living with her children and with her parents at Pollachi. The respondent has filed this H.M.O.P.No.1232 of 2021 in the Court of Additional Family Court, Coimbatore with an oblique motive to grab her from Pollachi to Coimbatore to defend the case.

7. The grievance of the petitioner is that she being a lady not in a position to travel nearly 50 kms for attending the Court proceedings at Coimbatore, wherein each and every hearing her presence is required. It is further submitted that she is depending on her parents for her livelihood and so she cannot travel alone to Coimbatore to attend the Court proceedings and sought to transfer the same to the Subordinate Court at Pollachi.

8. Having considered the submissions of the learned counsel for the petitioner and the facts and circumstances of the case, in our considered view, it is appropriate to consider the request of the petitioner.



9. In ***Rajani Kishor Pardeshi v Kishor Babulal Pardeshi***,¹ the

Hon'ble Apex Court held that while going into the merits of a transfer application, the Courts required to give more weight and consideration to the convenience of the female litigants, and the Courts should desist from putting female litigants under undue hardship. Therefore, the convenience of the wife is to be preferred over the convenience of the husband.

10. Considering the facts and circumstances of the case and the petitioner is being a lady, definitely she has to face difficulties to travel from Pollachi to Coimbatore to attend the case filed by the respondent. In our considered view, it is appropriate to transfer the H.M.O.P.No.1232 of 2021 on the file of the Additional Family Court, Coimbatore to the Subordinate Court, Pollachi.

11. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P.No.1232 of 2021 pending on the file of Additional Family Court, Coimbatore, is hereby withdrawn and transferred to the Subordinate Court, Pollachi. The Additional Family Court, Coimbatore shall transmit the

¹ 2005(12)SCC237



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entire record in H.M.O.P.No.1232 of 2021 pending on its file to the Subordinate Court, Pollachi, forthwith, by duly indexed.

12. Consequently, connected miscellaneous petition is closed.

13. There shall be no order as to costs.

24.06.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

Note: Issue order copy within three days.

To

1.The Additional Family Court, Coimbatore.

2.The Subordinate Court, Pollachi.



WEB COPY



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BATTU DEVANAND, J.

AT

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