



Tr. C.M.P. No. 1131 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr. C.M.P. No. 1131 of 2022

and

C.M.P. No. 19267 of 2022

P. Magudeeswari

... Petitioner

Vs.

S. Sithan

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the H.M.O.P. No. 79 of 2022 pending on the file of Principal Sub Court, Palani and to transfer the same to the Sub Court, Pollachi.

For Petitioner : Mr. N. Ponraj

For Respondent : No Appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the H.M.O.P. No. 79 of 2022 pending on the file of the Principal Sub Court, Palani and transfer the same to the Sub Court, Pollachi in the



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interest of justice.

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

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

3. The petitioner and respondent are wife and husband. The petitioner filed a complaint under Domestic Violence Act in D.V.A. No. 43 of 2019 on the file of Judicial Magistrate No. 2, Pollachi. The respondent herein has filed a petition in H.M.O.P. No. 79 of 2022 on the file of the Principal Sub Court, Palani for divorce against the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is living with her parents at Thondamuthur Post in Pollachi Taluk and it is very difficult for her being a lady and having a female child aged about three years to travel more than 70 kms for attending the case in the Court of Principal Sub Court, Palani. Accordingly, it is sought to transfer the H.M.O.P. No. 79 of 2022 pending on the file of Principal Sub Court Palani to Principal Sub Court Pollachi.



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5. Having considered the fact that the distance between Palani and Pollachi is more than 70 kms and the petitioner being a woman having female child aged about three years, she cannot travel for every hearing to attend the case at Principal Sub Court, Palani.

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

7. 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 Palani to attend the case filed by the respondent. In our considered view, it is appropriate to transfer the H.M.O.P. No. 79 of 2022 on the file Principal Sub Court Palani to Principal Sub Court Pollachi.

¹ 2005(12)SCC237



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8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P. No. 79 of 2022 pending on the file of Principal Sub Court Palani, is hereby withdrawn and transferred to the Principal Sub Court Pollachi. The Principal Sub Court Palani shall transmit the entire record in H.M.O.P. No. 79 of 2022 pending on its file to the Principal Sub Court Pollachi, forthwith, by duly indexed.

9. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

02.08.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

To

1.The Principal Sub Court, Palani.

2.The Principal Sub Court, Pollachi.



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BATTU DEVANAND, J.

AT

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