



Tr. C.M.P. No. 1328 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr. C.M.P. No. 1328 of 2022

and

C.M.P. No. 22450 of 2022

M.R. Saji

... Petitioner

Vs.

Sajeev Kumar

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the H.M.O.P.No.431 of 2022 on the file of the Sub Judge at Coimbatore District and transfer to the Family Court, Nagerkovil, Kanyakumari District to any other Court having jurisdiction at Nagerkovil, Kanyakumari District.

For Petitioner : Mr. S. Suresh Kumar

For Respondent : Mr. S.B. Viswanathan



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ORDER

WEB COPY This Transfer Civil Miscellaneous Petition is filed seeking to transfer H.M.O.P. No. 431 of 2022 on the file of the Sub Court, Coimbatore to the Family Court, Nagerkoil.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner and respondent are wife and husband and their marriage was solemnized on 10.12.2020. Out of their wedlock, one female child born on 21.06.2021 named as Shasha. Due to some matrimonial issues, the respondent / husband filed a petition in H.M.O.P. No. 431 of 2022 on the file of Sub Court, Coimbatore seeking for divorce under Section 13(1) (i-a) of Hindu Marriage Act. Already, the petitioner preferred Domestic Violence proceedings in D.V.C. No. 39 of 2022 against the respondent for the relief of return of articles, maintenance, protection and for compensation etc and it is pending before the Additional Mahila cum Judicial Magistrate, Nagerkoil.



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4. Learned counsel for the petitioner submits that the petitioner is suffering a lot with her minor child without any sustenance or maintenance. At this stage, she is unable to bear the travel expenses to Coimbatore, which is 442 km from Nagercoil which will be put to very discomfort. If is further contended that to conduct the case, she has to travel along with the minor child around 850 km for every hearing and it will cause great prejudice to her and will also deteriorate her health as well as child health. As such, she sought to transfer the H.M.O.P. No. 431 of 2022 on the file of the Sub Court, Coimbatore to the Family Court, Nagercoil.

5. On the other hand, the learned counsel appearing for the respondent vehemently opposed to transfer the H.M.O.P., from Coimbatore to Nagercoil. Learned counsel further submits that only to harass the respondent, she filed DVC case at Nagercoil and now she is seeking transfer of H.M.O.P. No. 431 of 2022 also from Coimbatore to Nagercoil and she contends that there are no bonafides in the contentions of the petitioner.



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6. Having considered the submissions of the learned counsel on either side and the facts and circumstances of the case, in our considered view, it is appropriate to consider the request of the petitioner.

7. 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.

8. Considering the facts and circumstances of the case and the petitioner is being a lady, definitely she has to face difficulties to travel from Coimbatore to Nagercoil to attend the case filed by the respondent. In our considered view, it is appropriate to transfer the H.M.O.P. No. 431 of 2022 on the file of the Sub Court, Coimbatore to the Family Court, Nagercoil.

9. Accordingly, this Transfer Civil Miscellaneous Petition is allowed

¹ 2005(12)SCC237



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and the H.M.O.P. No. 431 of 2022 pending on the file of Sub Court, Coimbatore, is hereby withdrawn and transferred to the Family Court, Nagercoil. The Sub Court, Coimbatore shall transmit the entire record in H.M.O.P. No. 431 of 2022 pending on its file to the Family Court, Nagercoil, forthwith, by duly indexed.

10. The Family Court, Nagercoil, shall dispose of the H.M.O.P. No. 431 of 2022 as expeditiously as possible preferably within a period of six months. Both parties shall cooperate for disposal of the case.

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

09.07.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

Note: Issue order copy within three days.

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BATTU DEVANAND, J.

AT

To

1.The Sub Judge at Coimbatore District.

2.The Family Court, Nagercoil.

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C.M.P. No. 22450 of 2022

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