



Tr.C.M.P(MD).No.456 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.456 of 2024
and
C.M.P(MD)No.10302 of 2024

K.Preethi : Petitioner

Vs.

S.N.Gokulnath : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw and transfer the petition in O.P.No.121 of 2024 on the file of the Family Court, Kanniyakumari District at Nagercoil to the Family Court, Madurai.

For Petitioner : Mr.A.Prasanna Rajadurai

For Respondent : Mr.S.Parthiban

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the petition in H.M.O.P.No.121 of 2024 on the file of the Family Court, Kanniyakumari District at Nagercoil and transfer the same to the file of the Family Court, Madurai.



Tr.C.M.P(MD).No.456 of 2024

2. It is evident from the records that the marriage between the parties was solemnized on 26.08.2021. It is not in dispute that the petitioner has filed a petition in H.M.O.P.No.437 of 2022 seeking restitution of conjugal rights and the same is pending on the file of the Family Court, Madurai. It is also not in dispute that the respondent has subsequently filed a petition in H.M.O.P. No.121 of 2024 seeking divorce and the same is pending on the file of the Family Court, Kanniyakumari District at Nagercoil.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Madurai and finds it very difficult to travel to Kanniyakumari to attend the hearings.

4.The learned counsel for the respondent would submit that they are not having any objection to transfer the case.

5.In the case of *N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha* reported in **2022 Live Law (SC) 627**, the Hon'ble Supreme Court has reiterated the position with generally, it is the wife's convenience, which must be looked at while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :



Tr.C.M.P(MD).No.456 of 2024

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”, the bench observed.”

6. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Madurai and also the facts that the respondent has not raised any objections and the petition in H.M.O.P.No.437 of 2022 filed by the petitioner is pending before the Family Court, Madurai, this Court decides that the case in H.M.O.P.No.121 of 2024, is ordered to be withdrawn from the file of the Family Court, Kanniyakumari District at Nagercoil and transfer the same to the Family Court, Madurai. The learned Judge, Family Court, Kanniyakumari District at Nagercoil, is hereby directed to transmit the entire records in H.M.O.P.No.121 of 2024 to the file of the



Tr.C.M.P(MD).No.456 of 2024

Family Court, Madurai, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Judge, Family Court, Madurai, is directed to take up the petition on file and conduct joint trial, if the trial was not commenced in the restitution petition and also directed to proceed with the trial simultaneously.

7. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.
No costs.

16.12.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das

To

- 1.The Judge Family Court,
Kanniyakumari at Nagercoil.
- 2.The Judge, Family Court, Madurai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Tr.C.M.P(MD).No.456 of 2024

K.MURALI SHANKAR, J.

DAS

Order made in
Tr.C.M.P (MD).No.456 of 2024
and
C.M.P(MD)No.10302 of 2024

16.12.2024