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Tr.C.M.P(MD)No.513 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.09.2024

Pronounced on : 21.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**Tr.C.M.P(MD)No.513 of 2024**

**and**

**C.M.P(MD)No.12205 of 2024**

Menaka

... Petitioner

Vs.

Dr.M.Manikandan

... Respondent

**PRAYER** : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in O.P.No.114 of 2022 on the file of the Sub Court, Pattukottai and transfer the same to the Principal Sub Court, Pudukkottai to try along with H.M.O.P.No.183 of 2022 pending on the file of the Principal Sub Court, Pudukkottai.

For Petitioner : Mr.J.Anandkumar

For Respondent : Mr.S.Senthamil Selvan

### **ORDER**

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw O.P.No.114 of 2022 on the file of the Subordinate Court, Pattukottai and to transfer the same to the file of the Principal Sub Court, Pudukkottai to try along with H.M.O.P.No.183 of 2022.



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2. The petitioner is the wife and the respondent is the husband. Their marriage was solemnized on 29.10.2020 as per Hindu rites and customs. Due to matrimonial affairs, misunderstanding arose between them, the petitioner and the respondent are residing separately. The petitioner has filed H.M.O.P.No.183 of 2022 on the file of the Principal Sub Court, Pudukottai against the respondent for restitution of conjugal rights. The respondent has filed O.P.No.114 of 2022 before the Sub Court, Pattukottai against the petitioner for divorce. The petitioner is now residing with her parents at Pudukottai. So, this petition is filed seeking transfer.

3. The learned counsel for the petitioner has submitted that the petitioner was forced to leave the matrimonial home by abusing her as if she is unfit for pregnancy. The petitioner is residing with her aged parents at Pudukottai. She is depending on the income of her old parents and she is not financially capable of conducting the cases in two different stations. The petitioner finds it very difficult to travel from Pudukottai to Pattukottai. Moreover, the respondent is an influential person in that locality and the petitioner apprehends life threat also. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.



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4. The learned counsel for the respondent objected the petition. He further submitted that the petitioner used to harass and threaten the respondent and his family members, so, the respondent filed the case in C.C.No.21 of 2024 against the petitioner and her family members. The petitioner has also filed D.V.C.No.8 of 2023 against the respondent and his family members in addition to the petition for divorce. The petition filed by the respondent is an earlier case, which is pending for cross examination of PW.1. At this stage, the petitioner has filed this petition to further drag on the proceedings and to harass the respondent. As per Section 21(d) of the Hindu Marriage Act, the subsequent case has to be transferred to be tried with the earlier case. The respondent is living hard in maintaining himself and his parents. The HMOP petition may be transferred to the middle station i.e., Aranthangi Sub Court.

5. In support of the argument, the learned counsel for the respondent relied on the decision of the **High Court of Punjab and Haryana** reported in **1991 SCC Online P & H 2057 (Veena vs Vinay Kumar)**.

6. Submissions of both sides considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living



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separately and in such circumstances, the petitioner/wife filed the petition for restitution of conjugal rights and the respondent/husband filed the petition for divorce. Both petitions are pending before the Sub Court, Pudukottai and the Sub Court, Pattukottai respectively. In addition, the petitioner has also filed D.V.C.No.8 of 2023 before the jurisdictional Court in Pudukottai.

7. As per the number of decisions of the Hon'ble Supreme Court, it is well settled proposition of law, whenever the transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference. The citation relied on by the respondent was rendered in the year 1991 by the High Court of Punjab and Haryana. Thereafter, various verdicts rendered by the Hon'ble Supreme Court for consideration of the wife's convenience, and hence, the citation will not help to the respondent.

8. Moreover, both cases are pending in the Sub Court and hence, the appearance of both parties for each and every hearing need not necessary as like Family Court. While the respondent is ready for transfer of the case to Aranthangi, he will not be prejudiced if transferred to Pudukottai. Therefore, taking note of the settled position of the convenience of the wife



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in matrimonial cases, I am of the view that the present petition filed by the wife is to be allowed.

9. In the result, this Transfer Civil Miscellaneous Petition is allowed.

The petition in O.P.No.114 of 2022 on the file of the Subordinate Court, Pattukottai, is hereby withdrawn and the same is transferred to the file of the Principal Sub Court, Pudukkottai to try along with H.M.O.P.No.183 of 2022 for disposal in accordance with law. The learned Sub Judge, Pattukottai, is directed to transmit the entire records pertaining to the case in O.P.No.114 of 2022 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

**21.11.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
VSD

To

1.The Subordinate Court, Pattukottai.

2.The Principal Sub Court, Pudukkottai

3.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J.**

VSD

**Pre - Delivery Order made in**  
**Tr.C.M.P(MD)No.513 of 2024**  
**and**  
**C.M.P(MD)No.12205 of 2024**

**21.11.2024**