



Tr.C.M.P(MD).No.517 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Tr.C.M.P (MD).No.517 of 2024
and
C.M.P(MD)No.12254 of 2024

M.Shalini Devi : Petitioner

Vs.

A.S.Manoj Kumar : Respondent

(A.Sailanathan is recognized as power agent on behalf of the sole respondent/A.S.Manoj Kumar vide Court order, dated 10.12.2024 made in CMP(MD)No.17859 of 2024 in Tr.CMP(MD)No.517/2024)

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in O.P.No.10 of 2024 on the file of the Family Court, Thoothukdu and to transfer the same to the Family Court, Ramanathapuram or any other competent Court in Ramanathapuram.

For Petitioner : Mr.R.Jothiraj

For Respondent : Mr.G.Prabuhu Rajadurai

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the case in H.M.O.P.No.10 of 2024 on the file of the Family



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Court, Thoothukudi and transfer the same to the Family Court, Ramanathapuram or any other competent Court in Ramanathapuram.

2. It is evident from the records that the marriage between the parties was solemnized on 23.01.2017. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.10 of 2024 seeking divorce and is pending on the file of the Family Court, Thoothukudi. It is also not in dispute that on the basis of the complaint lodged by the petitioner a criminal case in C.C.No.97 of 2024 for the alleged offences under Sections 498(A), 506(1) IPC and Section 4 of Dowry Prohibition Act, is pending on the file of the Additional Mahila Court, Ramanathapuram.

3.The learned counsel for the respondent would submit that the petitioner is a Dentist and is working in Trichy and the child is also studying in Trichy.

4.The learned counsel for the petitioner has produced the additional typed set of papers to show that the petitioner had relieved from her service and also produced the copies of Aadhar Card and Family Court to show that her parents are residing at Ramanathapuram.



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5. It is pertinent to note that after filing of the Dowry Prohibition Petition, the respondent went abroad and he has appointed his father as power agent to look after the case.

6.The learned counsel for the respondent would submit that the respondent's father is a senior citizen and finds it very difficult to travel from Thoothukudi to Ramanathapuram.

7.But the fact remains that the respondent has filed divorce petition before the Family Court, Thoothukudi and thereafter, went abroad.

8.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 :

“The cardinal principle for exercise of power under Section



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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."

9. Considering the facts and circumstances of the case and taking note of the residence of the petitioner and also the fact that the petitioner is having two children, this Court is of the view that the case in H.M.O.P.No.10 of 2024, is ordered to be withdrawn from the file of the Family Court, Thoothukudi and transfer the same to the file of the Family Court, Ramanathapuram. Accordingly, the learned Judge, Family Court, Thoothukudi, is hereby directed to transmit the entire records in H.M.O.P.No.10 of 2024 to the file of the Family Court, Ramanathapuram, 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, Ramanathapuram, is directed to take up the petition on



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file and proceed in accordance with law.

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

19.12.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Judge, Family Court, Thoothukudi.
- 2.The Judge, Family Court, Ramanathapuram.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

DAS

Order made in
Tr.C.M.P (MD).No.517 of 2024
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