



Tr.C.M.P(MD).No.523 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.523 of 2024
and
C.M.P(MD)No.12311 of 2024

R.Ambigai : Petitioner

Vs.

S.Karthick Babu : Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in H.M.O.P.No.96 of 2024 on the file of the Principal Sub Court, Chengalpattu and transfer the same to the Family Court, Madurai or Subordinate Court, Madurai.

For Petitioner : Mr.V.Kalichamy

For Respondent : Mr.T.P.Sekar

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the petition in H.M.O.P.No.96 of 2024 on the file of the Principal Sub Court, Chengalpattu and transfer the same to the Family Court, Madurai or Subordinate Court, Madurai.



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2. It is evident from the records that the marriage between the parties was solemnized on 03.06.2011 and due to their wed-lock, they were blessed with two children. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.96 of 2024 seeking divorce and is pending on the file of the Principal Sub Court, Chengalpattu.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Gomathipuram, Madurai and hence, it is very difficult to travel to Chengalpattu to attend all the hearings.

4.The learned counsel for the respondent would submit that their first child studying 7th standard is under the custody of the respondent and three years old female child is under the care and custody of the petitioner.

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 :



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“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 also fact that the petitioner is residing at Madurai District and she is taking care of three years female child, this Court is of the view that the case in H.M.O.P.No.96 of 2024, is ordered to be withdrawn from the file of the Principal Sub Court, Chengalpattu and transfer the same to the file of the Family Court, Madurai. Accordingly, the learned Principal Sub Judge, Chengalpattu, is hereby directed to transmit the entire records in H.M.O.P.No.96 of 2024 to the file of the Family Court, Madurai, within a period of 10 days from the date of receipt



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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 proceed in accordance with law.

7. 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
das

To

- 1.The Principal Sub Judge, Chengalpattu.
- 2.The Judge, Family Court, Madurai.
- 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.523 of 2024
and
C.M.P(MD)No.12311 of 2024

19.12.2024