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Tr.C.M.P(MD)No.533 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.02.2025

Pronounced on : 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.C.M.P(MD)No.533 of 2024

and

C.M.P(MD)No.12668 of 2024

Fino Meszha Jetly

... Petitioner

Vs.

Jones

... Respondent

PRAYER : This Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, to withdraw I.D.O.P.No.74 of 2024 on the file of the Principal District Court, Krishnagiri and transfer the same to the file of Family Court, Kanyakumari at Nagercoil.

For Petitioner : Mr.R.J.Karthick
For Respondent : Mr.R.V.Rajkumar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw I.D.O.P.No.74 of 2024 on the file of the Principal District Court, Krishnagiri and to transfer the same to the file of the Family Court, Kanyakumari at Nagercoil.



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2. The petitioner herein is the wife of the respondent.

The marriage between the petitioner and the respondent was solemnized on 31.08.2020 according to Christian rites and customs. Out of wedlock, they were blessed with a male child, named Erick Ryan, who was born on 16.07.2021. It is alleged that as the respondent and his family members started harassing the petitioner, misunderstanding arose between them and the petitioner was forced to leave the matrimonial house. She is now residing with her parents along with her child. Thereafter, the respondent filed the petition in I.D.O.P.No.74 of 2024 before the Principal District Court, Krishnagiri, seeking for divorce against the petitioner.

3. The learned counsel for the petitioner has submitted that the petitioner along with her male child was forced to leave the matrimonial home. She is now residing with her aged parents at Kanyakumari along with her 3 year old child. She is wholly depending on her parents. She finds it very difficult to travel 575 km to conduct the case at Krishnagiri. Moreover, the respondent is not taking care of the petitioner and her child. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition. In support of his submissions, the learned counsel for the petitioner relied on the citation reported in



2001 (5) Supreme 723 in the case of **Amita Shah /v/ Virender Lal Shah.**

4. The learned counsel for the respondent objected the petition. The learned counsel further submitted that the respondent suffered with Osteomyelitis of the Thigh bone with 30% permanent disability and he is advised not to travel long distances and also avoid to sit & stand continuously for long time. The respondent produced the medical certificate showing the disability. There is no proof for the alleged harassment and the case may be transferred to Madurai situated in between Kanyakumari and Krishnagiri. In support of his argument, the learned counsel relied on the following citations:

- (1) 2007 Writ L.R. 905 (Union of India
& 2 Others /v/ Dr.M.M.Cholen & Others)**
- (2) (2010) 14 Supreme Court Cases 38
(Ramjas Foundation and Another /v/ Union
of India and Others)**

5. Submissions of both side considered. The respondent and the petitioner are husband and wife. Due to misunderstanding, they are living separately and in such circumstances, the respondent filed the



petition for divorce before the Principal District Court, Krishnagiri.

The petitioner is living with her child at Kanyakumari and depending on her parents. It is well settled proposition of law by the number of decisions of the Hon'ble Supreme Court that 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.

6. The Medical Certificate, dated 26.12.2021 produced by the respondent revealed that the respondent was advised not to travel long distance. The respondent has not produced any medical certificate to show his present ailment. Though the respondent has stated that he has 30% permanent disability, no disability certificate has been produced. Moreover, the respondent is ready to travel to Madurai if the case is transferred to Madurai, whileso he is able to travel long distances. If the case is transferred to the middle station, which will be of no use as both parties have to travel. Therefore, taking note of the settled position of convenience of the wife in matrimonial cases, this Court is of the view that the present petition filed by the wife is to be allowed.



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7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in I.D.O.P.No.74 of 2024 on the file of the Principal District Court, Krishnagiri, is hereby withdrawn and transferred to the file of the Family Court, Kanyakumari District at Nagercoil for disposal in accordance with law. The learned Principal District Judge, Krishnagiri, is directed to transmit the entire records pertaining to the case in I.D.O.P.No.74 of 2024 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.

28.02.2025

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

To

1. The Principal District Court,
Krishnagiri.
2. The Family Court,
Kanyakumari at Nagercoil.
3. The Additional Public Prosecutor,
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.533 of 2024
and
C.M.P(MD)No.12668 of 2024

28.02.2025