



Tr.CMP(MD)No.695 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.04.2025

Pronounced on : 11.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.CMP(MD)No.695 of 2024

and

C.M.P(MD)No.16510 of 2024

A.Amala Priya

... Petitioner

Vs.

R.Kennedy

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in G.W.O.P.No.85 of 2024 on the file of the I Additional District Court, Madurai and to transfer the said case to any District Court, Theni.

For Petitioner : Mr.C.Vakeeswaran

For Respondent : Mr.T.K.Gopalan



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the G.W.O.P.No.85 of 2024 on the file of the I Additional District Court, Madurai and to transfer the same to the file of any District Court, Theni.

2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 26.05.2013 as per Christian rites and customs. Out of wedlock, they have been blessed with a daughter named Paulin Prisha, who was born on 29.06.2015 and a male child named Ivan Ignatitus, who was born on 04.07.2019. It is alleged that due to misunderstanding between the petitioner and the respondent, they are living separately. It is further alleged that the petitioner was forced to leave the matrimonial house and she is now residing with her parents at Madurai along with her children. Thereafter, the respondent filed the petition in G.W.O.P.No.85 of 2024 to appoint him as guardian of minor children. Hence, this petition is filed.

3. The learned counsel for the petitioner has submitted that after marriage, the respondent left the job and developed inferiority complex as the petitioner was working in a college. As he continuously compelled the petitioner to resign the job and went away leaving the petitioner. Now the petitioner is working as an



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Assistant Professor at Bodinayakanur and is living with her parents along with

her children. Her children are studying in schools at Bodinayakanur. The respondent harassed the petitioner and came to her house and made threat, so the police was called by dialing 100. The respondent purposely filed the petition for appointment of guardian before the Court in Madurai in order to harass the petitioner further. The petitioner has produced her identity card and certificate issued by the school for her children. She finds it very difficult to attend the Court at Madurai from Bodinayakanur. The learned counsel submitted that the convenience of the wife is the paramount consideration in case of transfer petition. In the above circumstances, the petitioner has filed this present Transfer Civil Miscellaneous Petition.

4. The learned counsel for the respondent objected the petition. The learned counsel further submitted that the respondent is now working at the American College, Madurai. During the weekend, he used to visit his son and daughter, but the petitioner would not allow him inside the house and he was permitted to see his children outside the house. The police made enquiry upon petition, the respondent gave an undertaking in writing that she would not cause any impediment to visit the children and also she was not willing to live with the respondent. But, the petitioner did not allow the respondent to see the children.



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So, the respondent filed the petition for appointing him as guardian for his children. The learned counsel has further submitted that the respondent is maintaining savings bank account and insurance for his children and is having much love and affection. The respondent has produced an additional typed set and photos. Therefore, the respondent may be granted visitation rights in this petition, as this Court can do substantial justice.

5. Submissions of both sides considered. It is not disputed that the marriage between the petitioner and the respondent was solemnized and they are husband and wife. Due to misunderstanding, they are living separately. The claim of visitation rights cannot be decided in this petition, which is filed for transfer of the main petition for guardianship. The same can be sought before the trial Court. The petitioner has filed her identity card, school certificate for her children. From those documents, it is clear that the petitioner is now residing at Bodinayakannur and also the children are studying in schools at Bodinayakanur. The respondent has not denied the same. 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. Therefore, considering the settled position of the convenience of the wife in



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matrimonial cases, this Court is of the view that the present petition filed by the

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6. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in G.W.O.P.No.85 of 2024 on the file of the I Additional District Court, Madurai, is hereby withdrawn and transferred to the file of the Principal District Court, Theni, for disposal in accordance with law. The learned I Additional District Judge, Madurai, is directed to transmit the entire records pertaining to the case in G.W.O.P.No.85 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.

11.06.2025

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

To

- 1.The I Additional District Court, Madurai.
- 2.The Principal District Court, Theni.
- 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
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