



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED :05.09.2017  
CORAM

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU**

TR.C.M.P(MD)No.170 of 2017  
and C.M.P.(MD) No.3832 of 2017

Sangiliyammal

... Petitioner/Respondent/Wife

Vs.

V.Azhaguraj

... Respondent/Petitioner/Husband

**Prayer:** Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the original petition in H.M.O.P. No.3801 of 2015 on the file of the Family Court, Chennai and transfer the same to the file of the Principal Sub Court, Dindigul to be heard along with H.M.O.P.No.48 of 2016 on the file of the Principal Sub Court, Dindigul.

For Petitioner : Mr.S.Israel  
For Respondent : Mr.M.Karthikeyan

### J U D G M E N T

The Transfer Civil Miscellaneous Petition is filed for transfer of H.M.O.P. No.3801 of 2015 from the file of the Family Court, Chennai to the file of the Principal Sub Court, Dindigul.

2. The petitioner would aver that the marriage between the petitioner and the respondent was solemnized on 06.03.2011 as per Hindu Rites and Rituals. The petitioner gave birth to a female child namely Yogasri. Dispute arose between them. After seven months, at the intervention of the elders of the family, a compromise has entered into between the petitioner and her husband. Thereafter, the petitioner and the respondent herein stayed at Tiruppur. In the meanwhile, the respondent filed a divorce petition in H.M.O.P.No.3801 of 2015 before the Family Court, Chennai and the petitioner alleged that the respondent had illegitimate intimacy with his brother's wife and therefore there was a dispute between the petitioner and the respondent and the petitioner filed a petition in H.M.O.P.No.48 of 2016 on the file of the Principal Sub-Court, Dindigul for restitution of conjugal rights.

3.The petitioner submit that she is living with her aged parents at Nellikottai, Dindigul District and hence, she seeks for transfer of the above petition from Chennai to Dindigul.



4. The learned counsel for the respondent would bring to the notice of this Court that divorce petition has been set ex-parte and the petitioner has filed restoration application and the H.M.O.P. Has not been restored till date. The petitioner had not averred anything as to the ex-parte order passed in H.M.O.P and filing of restoration application and therefore, this petition is not maintainable.

5. Heard both sides.

6. It is seen that H.M.O.P.(MD) 3801 of 2015 on the file of the Family Court, Chennai, has been set ex-parte and restoration application has been filed and the same was posted for filing counter and H.M.O.P has not been restored till date. The petitioner has sought for transfer of H.M.O.P 3801 of 2015 filed for divorce. But as on date the said petition is not pending and hence, there is no question of transfer. Hence, this Transfer Civil Miscellaneous petition is dismissed. No costs. Consequently, connected C.M.P.(MD).No.3832 of 2017 is also dismissed.

Sd/-  
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Judge,  
The Family Court,  
Chennai.

2. The Principal Subordinate Judge,  
Dindigul.

+ 1 CC TO MR.S.Israel, ADVOCATE IN SR No.76931

cm

MK/SKN RSK/SAR-2/12.10.2017/2P/4C

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