



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM:

WEB COPY

**THE HONOURABLE MS.JUSTICE P.T. ASHA**TRCMP (MD).No. 397 of 2018 and  
CMP (MD).No.9513 of 2018

Padmapriya

.. Petitioner

Vs.

Mariappan

... Respondent

**PRAYER:** This petition is filed, under Section 24 of CPC to withdraw the case on the file of the Principal Subordinate Judge, Kumbakonam in HMOP.No. 131 of 2016 and transfer the same to the file of Principal Subordinate Judge, Mayiladuthurai.

For Petitioner : Mr. S. Deenadhayalan  
For Respondent : No appearance

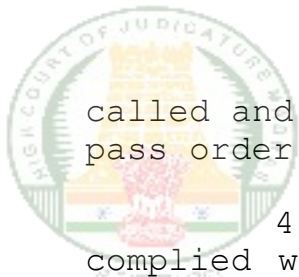
**ORDER**

The above Transfer CMP is filed by the wife, who is the respondent in HMOP.No. 131 of 2016, pending on the file of Principal Subordinate Court, Kumbakonam. The HMOP has been filed by the respondent / husband for dissolution of the marriage between himself and the respondent therein.

2. The petitioner would submit that since the respondent / husband has not been maintaining her, she has filed M.C.No. 2 of 2017, on the file of learned Judicial Magistrate No.I, Mayiladuthurai. Though the learned Judicial Magistrate No.I, Mayiladuthurai, has awarded maintenance both to the petitioner as well as her child at the rate of Rs.5,000/- each, the said amount is not paid by the respondent as on date and the Execution Petition filed by the petitioner is still pending. She would contend that in view of the fact that she is purely depending on her parents for maintenance for herself and her child, it is very difficult for her to travel to attend the case at Kumbakonam. She also stated that her husband is a highly influential person in Kumbakonam and therefore, she fears for her physical safety at Kumbakonam.

3. Though the name of the counsel for respondent / husband is printed in the cause list, none appeared, when the mater is

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called and considering the short issue, this Court is proceeding to pass order in the absence of counsel for respondent.

4. Considering the fact that the respondent has not complied with the conditional order passed by the learned Judicial Magistrate No.I, Mayiladuthurai, granting maintenance on the fact that wife has to travel on the way to Kumbakonam, this Court is of the view that in the interest of justice, the substantive proceedings pending before the learned Principal Subordinate Judge, Kumbakonam in HMOP.No. 131 of 2016 is to be transferred to the file of the learned Principal Subordinate Judge, Mayiladuthurai.

5. Accordingly, the Transfer Civil Miscellaneous Appeal is allowed. The learned Principal Subordinate Judge, Mayiladuthurai shall take up HMOP.No. 131 of 2016 after transfer and hear the matter only on compliance of order of maintenance passed by the learned Judicial Magistrate No.I, Mayiladuthurai in M.C.No. 2 of 2017. If the order is not complied with by the respondent, the proceedings in HMOP will be kept in abeyance till the maintenance order is complied with by the respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

trp

To

1. The Principal Subordinate Judge, Kumbakonam.
2. Principal Subordinate Judge, Mayiladuthurai.
3. The Judicial magistrate No.I,  
Mayiladuthurai.

+1CC TO MR.S.DEENADHAYALAN, Advocate Sr. No. 92027

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NA (CO)

TR (07.11.2019) 2P 5C